

MINING IN OTHER PEOPLE'S LAND.
THE UNINTENDED CONSEQUENCES OF MINERAL LIBERALIZATION
IN SUBANON LAND IN MINDANAO, PHILIPPINES

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ABSTRACT

The contrast between the Philippines as an idyllic holiday destination for foreign visitors and the daily lived realities of Indigenous people in Mindanao who have experienced first-hand how others were mining in their ancestral domain is stark. This research study is the story of an Indigenous people, the Subanos, in Sitio (village) Canatuan in Siocon Municipality, Zamboanga del Norte Province in Mindanao, Southern Philippines. In this research I recount and analyze the harmful effects on their communities and way of life following the 1995 national liberalization of mining laws and TVI mining operations on their land. This story, based on my first-hand research over 8 years, is based on participant observation, oral history, interaction, interviews, and analysis of data and records is told through an autoethnography. My constructed story and voice tell the people's story. I give attention to the unintended consequences of purposive actions taken by actors variously located in the contexts in response to such mining policy and operations. These actions include the Subanos' participation in the genesis, completion and outcomes of a community-based human rights impact assessment, which I have critically examined with Robin Hansen. The larger context is one of past and continuing violence in Mindanao with the Philippines' dismissive characterization as "the Mindanao problem."

In response to field conditions, contingent on ongoing Canadian-owned mining project and operations in Sitio (village) Canatuan in Siocon Municipality, as an autoethnographer I improvised as well as elaborated ways of doing research in continuing and deepening engagement. I have conceptualized the resulting responsive research participation as 'consequential autoethnography.' The practices and overall methodology involved following the consequences of purposive actions of contextual actors as they responded to mineral liberalization as policy and as stages of the mining operations as these played out 'in their land.' Intrinsic and integral to such a methodology is the notion of "fielding." "Fielding" describes my ethnographic adaptive and reflexive processes of knowing, learning, and engagements involved in doing participatory action research. The autoethnography – Chapter 4 with 10 vignettes recounting fielding from 2002 to 2010 – not only tells my story from a researcher's vantage points and relationships, but also the stories

of the many actors and relationships involved, with special attention to the Subanos' leaders and people in Canatuan responding to others mining 'in their land.'

This study addressed three questions that emerged in "fielding" about the consequences of neoliberal mining policy underlying the Philippine State Mining Act of 1995 generally, and specifically the mining operations of TVI in Canatuan. (1) What are the social, cultural, economic and political impacts of mineral liberalization policies in the actual large-scale mining by a foreign company? (2) What intracommunity conflicts are generated with the entry of large-scale mineral development in mining operations? (3) What are the outcomes of community actors and subgroups' interactions with the mining project company and with each other?

In answer to the three questions, I conclude that the Philippine State mining policy in its legislation (1995) and TVI's 18-year mining operations in Canatuan (1994 to 2014) have had adverse, even devastating, social, cultural, economic and political impact on communities in Mindanao, particularly among the Subanos. Due to the Philippine State's strategic simplifications and previous development agenda implemented in Mindanao, communities, particularly Indigenous communities in their ancestral lands, were pre-disposed to benefit the least and bear the most in the costs of development. The mining project has also given rise to complex patterns of inclusion and exclusion in communities through the homogenization of group and ethnic identity that resulted in the unequal distribution of the costs and the benefits of mining. I highlight significant contributions emergent in this research. I suggest recommendations to counter the adverse effects documented in this research.

Finally, this dissertation is a response to Timouy (Chieftain) Ben Alog's request that the story of the Subanos of Canatuan be told – that what happened to them when "Mining in Other People's Land" devastated their ancestral way of life and home at Mount Canatuan – would be known.

ACKNOWLEDGEMENTS

In following the consequences of purposive actions of actors who were caught in an oppressive system in Mindanao, Southern Philippines where I come from, my study, no doubt, was a journey that took me to the margins – both materially and existentially. There, I encountered people and situations that transformed me in ways that I could not fathom or imagine. Some of them remain nameless as I have only encountered them while walking in the dark and in heavy downpour because there was a landslide. Without their hands reaching out to me, I would have slipped into a ravine with my heavy backpack. Or, like that elderly couple, who told the bus attendant that I was left behind on a toilet break, and urged the driver to go back for me. They probably took notice of me when I smiled at them when I stepped into the bus before slumping in my seat to catch up on sleep. Or, that woman who watched over me and brought my fever down when I was stranded in a small island while fielding. With gratitude and prayer, I remember them and many others who welcomed me, a stranger, in their homes and meeting me where I was at and as I endeavoured to meet them where they were at.

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I also express gratitude to my advisory committee. Their overall generosity for joining a committee at late notice, their willingness to embrace the complexities of this research and engage in open and frank discussion have been a gift.

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DEDICATION

To the Good Creator of all things, my father Enrique who gave us his love for books and music, my mother Julie who gave us her faith in Christ, to the Subanos of Zamboanga Peninsula especially of the Gukom sog Pito Kodolonga, and to Mindanao – I dedicate this dissertation.

CONTENTS

PERMISSION TO USE	i
ABSTRACT	ii
ACKNOWLEDGEMENTS	iv
DEDICATION	vii
CONTENTS	viii
LIST OF FIGURES	xiii
LIST OF TABLES	xiv
LIST OF ABBREVIATIONS	xv
CHAPTER 1 INTRODUCTION.....	1
1.1 Mineral Liberalization in the Philippines.....	5
1.2 Research Questions and Arguments.....	9
1.3 Area of Study and Research Methods	13
1.4 Organization of the Dissertation.....	16
CHAPTER 2 CONSEQUENTIAL AUTOETHNOGRAPHY: METHODOLOGICAL CONSIDERATIONS AND FIELDING IN MINDANAO	23
2.1 Some Considerations in Following Unintentionality	25
2.2 Methodological Considerations and Constituting “The Field” in Mindanao.....	36
2.3 Fielding: “The Field” as Verb	41
CHAPTER 3 THEORETICAL FRAMEWORKS IN RECURSION	48
3.1 Approach I: Unintentionality and Unanticipated Consequences	51
3.2 Approach II: Politicized Environment	58
CHAPTER 4 I/WE, THE CONSEQUENTIAL AUTOETHNOGRAPHER, FIELDING IN MINDANAO AND BEYOND	71
4.1 Vignette 1 - Fielding (2002): Prospecting and Exploring the Mindanawon Consciousness	78
4.2 Vignette 2 - Fielding (2003): The Road Inadvertently Taken.....	87
4.2.1 Who are the Subanos?	89
4.2.2 Fielding in Midsalip.....	100

4.2.3 The Unintended Consequences of Development.....	103
4.2.4 Fielding among the Subanos of Zamboanga del Sur.....	105
4.2.5 Going Beyond Participant Observation.....	114
4.3 Vignette 3 - Fielding (2004): The Field in Siocon	119
4.3.1 Siocon Poblacion Past Midnight.....	119
4.3.2 The Priest who Plays the Harp.....	121
4.3.3 The Pisawak Picket Line	123
4.3.4 A Murder in Siocon	126
4.4 Vignette 4 - Fielding (2005) – Abandoning Fieldwork.....	131
4.4.1 Field Notes, March 18, 2005.....	131
4.4.2 My gut talks back (Field notes, March 18, 2005, p. 352)	137
4.4.3 Field Notes, March 19, 2005.....	138
4.4.4 Abandoning Fieldwork.....	141
4.5 Vignette 5 - Fielding (2006): Trekking Canatuan	144
4.5.1 A Political or Research Decision?	144
4.5.2 Circumventing Checkpoints	157
4.5.3 Field notes, June 24, 2006	164
4.5.4 Field notes, Dec. 6, 2006	166
4.6 Vignette 6 - Fielding (2007): Researching Mining in Mindanao	166
4.6.1 Core Stakeholders	183
4.6.2 Critical Stakeholders.....	185
4.6.3 Grappling with Complexities	187
4.6.4 Fielding and Ground-Truthing.....	191
4.7 Vignette 7 - Fielding (2008): “Thinking Through”	195
4.8 Vignette 8 - Fielding (2009) Part I - Intended and Unanticipated Consequences of Open Conversations.....	206
4.8.1 Field Notes, March 29, 2009.....	206
4.8.2 Day 1 - Chicken/Fowls and Omens.....	207
4.8.3 Day 2 – Masara, Compostela Valley	208
4.8.4 Day 3 - The Two Chieftains from the Two Desecrated Mountains of Mindanao.....	212
4.8.5 The Unintended Consequence of Collaborative Research.....	215

4.9 Vignette 9 - Fielding (2009) Part 2: Pakighinabi sa Canatuan (The Conversations in Canatuan).....	220
4.9.1 Excursus: The Non-Government Organizations as Contextual Actors.....	224
4.9.1.2 The NGOs in the Canatuan Case	233
4.9.2 The Recognition of a Tribal Leader.....	243
4.9.3 Collateral Consequences	246
4.9.4 Reflections on Interventions	248
4.10 Vignette 10 Fielding (2010): Fielding in Montreal	249
4.10.1 International Meeting in Montreal.....	255
4.10.2 Detouring to Saskatchewan.....	265
CHAPTER 5 THE PHILIPPINE STATE, MINERAL LIBERALIZATION, AND MINDANAO.....	270
5.1 Analytical Approach.....	271
5.2 Mindanao’s History of Development and Environmental Degradation.....	275
5.2.1 First Disconnect: Mineral Liberalization & Sustainable Development	280
5.2.2 Second Disconnect: Mindanao’s Complexities and the State’s Simplifications	290
5.2.2.1 Ethnic differentiation and resource access in Mindanao.....	290
5.3 Conclusion.....	297
CHAPTER 6 THE UNINTENDED CONSEQUENCES OF MINERAL LIBERALIZATION IN SUBANON LAND ON THE ISLAND OF MINDANAO, PHILIPPINES	299
6.1 Approaching the “Unintended” and “Unanticipated”	301
6.2 Surprises from the field: The Subanos and small-scale miners.....	307
6.3 Exploration	310
6.4 Development and Construction Stage	315
6.5 Extraction	322
6.5.1 Unintended but Anticipated Consequences: The Downstream Communities	322
6.5.2 Intended and Anticipated Outcomes: TVI a Runaway Train	326
6.6 Closure.....	328
6.7 Conclusion.....	332

CHAPTER 7 THE POLITICAL LIFE OF A HUMAN RIGHTS IMPACT ASSESSMENT: CANADIAN MINING IN THE PHILIPPINES	335
7.1. Introduction	335
7.2. HRIA Case Study	343
7.2.1 Methodology	343
7.2.2 Background to the HRIA Case Study.....	344
7.2.3 The Mining Investment at Mount Sitio Canatuan	347
7.3 Analysis: Political Dimensions of the HRIA	352
7.3.1 Actors Involved.....	352
7.3.2 Party Positionality and the HRIA’s Broad Execution	355
7.3.3 Positionality and the HRIA Assessment Methodology	361
7.3.3.1. Information Gathering: Selection of Informants & Survey vs. Fieldwork	361
7.3.3.2 Language of Assessment	363
7.3.3.3 Status and Interpretation of Existing Knowledge	364
7.3.3.4 Defined Scope of Community	365
7.3.3.5 Timelines Selected.....	366
7.3.3.6 Summary	366
7.3.3.7 The HRIA’s Legacy.....	367
7.4 Discussion	371
7.5 Conclusion.....	380
CHAPTER 8 THE “IMPAK!” OF MINERAL LIBERALIZATION: SUMMARY, CONCLUSION AND RECOMMENDATIONS	381
8.1 “Nobody Listened to Us”	383
8.1.1 Subanon Agency and their Changing Contexts	385
8.1.2 Interconnected Consequences: Politics, Development and Economics	389
8.1.2.1 Consequences to Indigenous Political and Governance System	390
8.1.2.2 Political Deals and Reclaiming Indigenous Governance System	397
8.1.2.3 Mineral Development and the Other Scales of Economy.....	401
8.1.2.4 The Company and the Philippine Government’s Mineral Revenues: Mining for Whom?	409

8.2. Consequential Autoethnography: Solidarity and A Quest for Authentic Humanity	421
8.2.1 “What am I doing here?.....	421
8.2.2 Freire’s Pedagogy	424
8.2.3 Ways Forward.....	429
REFERENCES	434
APPENDICES	470
APPENDIX A Accounting for Length of Time in Completing PhD Programs: 2003-2019 ...	470
APPENDIX B Ethics Review	474
APPENDIX C Chronology of Events in the Canatuan Case Study	476
APPENDIX D Chronology of the Subanos’ Purposive Actions.....	501
APPENDIX E Financial Tracking: TVI Pacific.....	506
APPENDIX F History of Mining Laws in the Philippines	524
APPENDIX G Environmental Laws relevant to Mining	559
APPENDIX H A Comparison of Mining Laws on Small-Scale Mining in the Philippines.....	562

LIST OF FIGURES

Figure 1-1. The Philippines three geographical divisions: Luzon (Northern Philippines), Visayas (Central Philippines, and Mindanao (Southern Philippines).....	1
Figure 1-2. Historical timeline of laws and policies on mining and developing Mindanao.....	11
Figure 1-3. Map of Canatuan community drawn by Raul Furugay, a former small-scale miner, who assisted me in my research.....	13
Figure 1-4. The Municipality of Siocon is between the Municipalities of Sirawai and Baliguian	15
Figure 1-5. Graphic overview of the organization of the dissertation.....	17
Figure 2-1. Schematic diagram based on Sztompka's typology of unintended consequences.....	55
Figure 4-1. Graphic overview of fielding from 2002-2010.....	71
Figure 4-2. Location of Subanon linguistic group in Zamboanga Peninsula	92
Figure 4-3. Map of Marinduque Island where Marcoper Mine Corporation was located. .	134
Figure 4-4. The research sites of the Mining in Mindanao collaborative research are located in the Municipality of Bayong, Zamboanga del Sur; Municipality of Siocon in Zamboanga del Norte; Taganito in the Municipality of Claver, Surigao del Norte; Tampakan in Sultan Kudarat; Diwalwal in Monkayo, Compostela Valley	178
Figure 4-5. Map of Compostela Valley	206
Figure 6-1. Four types of actions resulting from combining motivational and intellectual dimensions (Sztompka, 2015).	303
Figure 6-2. TVI's Contribution to the Philippine Economy from 2004-2013	330
Figure 8-1. Map drawn by representatives of the Siocon Farmers Associations, which shows the river system and how mining in Canatuan that is part of the Siocon Watershed, affects their farmland downstream.	403
Figure 8-2. Map drawn by representatives of the Siocon Fish-Farmers association to show how mining in Canatuan impact their fishponds downstream in Siocon Municipality.	404
Figure 8-4 TVI's total revenue and contribution to the Philippine economy from 2004-2014	410
Figure 8-3. TVI Canatuan Mining Project's Revenues: A Comparison of Expenses and Profit.....	411
Figure 8-4. The map perspective of the Subanos belonging to the Apu Manglang G'lupa Pusaka, which shows where their ritual place, sacred tree and herbs, hunting ground and where the animals were found in Mount Canatuan.....	413
Figure 8-5. Graphic overview of autoethnography	424
Figure 8-6. TVI's Canatuan mining project satellite view using Google Earth taken on September 2019, five years after the company declared its closure.	433

LIST OF TABLES

Table 4-2. A contrast between Indigenous justice system and the Philippines' judicial system	201
Table 6-1. Unintended Consequences of Mineral Liberalization.....	334

LIST OF ABBREVIATIONS

ADDU – Ateneo de Davao University
ADZU – Ateneo de Zamboanga University
AMGP – Apo Manglang G’lupa Pusaka
BAUSO – Bayog United Subanon Organization
CADT – Certificate of Ancestral Domain Title
CAFOD – Catholic Agency for Overseas Development
CALT – Certificate of Ancestral Land Title
CBHRIA – Community-based human rights impact assessment
CIDA – Canadian International Development Agency
CPP/NDF/NPA – Communist Party of the Philippines, National Democratic Front/New Peoples
Army
CRS – Catholic Relief Services
CSFA - Community Stewardship Forestry Agreement
CSO – Civil Society Organizations
CoE – Council of Elders
DAO – Department Administrative Order
DCMI – DIOPIM [Catholic Dioceses of Dipolog, Ipil, Ozamis, Pagadian, Iligan, and
Marawi] Committee on Mining Issues
DENR – Department of Environment and Natural Resources
DFA – Department of Foreign Affairs
DoT – Department of Tourism
EMB – Environmental Management Bureau
EIA – Environmental Impact Assessment
EPEP – Environmental protection and enhancement plan
EPG – Executive Planning Group
FPIC – Free, prior and informed consent
FTAA – Financial and Technical Assistance Agreement
HRIA – Human Rights Impact Assessment
IFMA - Integrated Forest Management Agreement

IAIA – International Association for Impact Assessment

IMF/WB – International Monetary Fund/World Bank

IPRA – Indigenous Peoples Rights Act

LGC – Local Government Code

LIC – Low Intensity Conflict

LRC – KSK/FoE Phils - The Legal Rights and Natural Resources Center-Kasama sa Kalikasan/Friends of the Earth Philippines

MAC – Mindanao Anthropology Consortium

MGB – Mines and Geosciences Bureau

MILF – Moro Islamic Liberation Front

MNICC – Mindanao News and Information Cooperative Center

MNLF – Moro National Liberation Front

MPSA – Mineral production sharing agreement

NCIP – National Commission on Indigenous Peoples

NGO – Non-Government Organizations

NEDA – National Economic Development Agency

NPA – New Peoples Army

PBS - Pigsalabuhan Bangsa Subano

PCHR – Philippine Commission on Human Rights

PEIS – Philippine Environmental Impact Statement

PGB – Pigsalabukan Gukom de Bayog

PipLinks – Philippines Indigenous Peoples Links

PNOC – Philippine National Oil Company

RA – Republic Act

R&D – Rights and Democracy

SAP – Structural adjustment program

SCAA – Special CAFGU [Civilian Armed Forces Geographical Unit Active] Auxiliary

SDMP – Social development and management program

SEC – Securities and Exchange Commission

SIA – Social impact assessment

SFA – Siocon Farmers Association

SFFA – Siocon Fish Farmers Association

SSF – Siocon Subanon Federation

SSWPM – Save Siocon Watershed Paradise Movement

SIL – Summer Institute for Linguistics

SSAI – Siocon Subanon Association Inc.

TFC – Task Force Canatuan

TMC – Taganito Mining Corporation

TVI – Toronto Ventures Inc.

TVIRDP – TVI Resource Development Philippines

UGAT – Uganayang Pang-Agham Tao/Anthropological Association of the Philippines

UNCERD – United National Committee on the Elimination of Racial Discrimination

UNWGIP – United Nations Working Group on Indigenous Populations

WMC – Western Mining Corporation

XU – Xavier University

ZAMPAAM – Zamboanga Peninsula Alliance Against Mining

CHAPTER 1

INTRODUCTION

In a bid to increase tourist arrivals in the Philippines, in 2012 the country's Department of Tourism (DoT) launched its campaign ad slogan, "It's More Fun in the Philippines". The hashtag #ItsMoreFuninThePhilippines" immediately became the top trending topic worldwide as DoT bombarded the social media with catchy videos and interactive web sites (e.g. The official UK travel Guide for the Philippines).¹ They showcased the country's over 7,000 islands with amazing nature spots where "thrill seekers or sun lounge lovers" can choose to go. Archipelagic Philippines has "powder white (or pink) sands, turquoise waters and stunning coral reefs", which are found in any of the country's three regions – Luzon (Northern Philippines), Visayas (Central Philippines), and Mindanao (Southern Philippines) (see Figure 1-1). The country has a long history of rule by others, the Spaniards and the United



Figure 1-1. The Philippines three geographical divisions: Luzon (Northern Philippines), Visayas (Central Philippines, and Mindanao (Southern Philippines). Source: globalsecurity.org

¹ Also owing to the fact that the Philippines is the most active country on social media (Goldstuck, 2015)

States.² “Three hundred years in a convent, and 50 years in Hollywood,” as summed up in DOT’s ad campaign. The Philippines was named after a king in Spain, the DoT 2012 video continues, “to which an American General vowed to return”. In 1946, the Philippines gained its independence from the US, but both maintained a neo-colonial relationship thereafter (Shalom, 1981).

Bounded by the Pacific Ocean to the east, the Bashi Channel to the North where Taiwan is located, and the Celebes Seas to the south where Indonesia begins, the Philippines is situated north of the Malay Peninsula that contains Malaysia, Southern Thailand and southernmost tip of Myanmar in Southeast Asia. It is located along the typhoon belt in the Pacific where at least an average of 20 typhoons would enter the country, five of which would be destructive (Asian Disaster Reduction Center, 2008). It is also at the western fringes of the Pacific ring of fire where a large number of earthquakes and volcanic eruptions occur, but where large deposits of minerals can also be found. Generally, the country’s geographical location and physical environment make the country vulnerable to tsunamis, sea level rise, storm surges, landslides, flood/flashflood, and drought (Holden & Jacobson, 2012: Asian Disaster Reduction Center, 2008).

The Philippines is also part of the Coral Triangle, the planet’s richest center of marine life and coral diversity, which spans Indonesia, Malaysia, Papua New Guinea, Timor Leste and the Solomon Islands. The country is among the 18 geographical regions considered biodiversity hotspots (Myers, 1989, 1990). As “areas particularly rich in species, rare species, threatened species, or some combination of these attributes” (Reid, 1998, p. 275), they deserve conservation attention. The World Wildlife Fund (2018) explains that many of these species are endemic to the Philippines. More than 35 percent of the 580 recorded birds are found only in the Philippines.

² During World War II, Japan also briefly occupied the Philippines.

More than 60 percent of the 167 different species of mammals and 65 percent of at least 10,000 documented plant species are endemic to the country (WWF, 2018). Among the Philippines more than 7,000 islands, Palawan and Mindanao have been declared as the country's foremost biodiversity hotspots.

In addition, the country's mineral wealth is staggering, with the Philippines as the fifth most mineral-rich country in the world for gold, nickel, copper, and chromite deposits. In 2012, the United States' Department of State reported that the Philippines has an untapped mineral worth of more than \$840 billion, making it "one of the world's most highly mineralized countries" (Esplanada, 2012).

With such resources, and the country's physical environment and geographical location, any development agenda and projects are likely, and they often do, stir controversy and conflict among different actors and stakeholders. Even more so when these are extractive operations like mining. The Philippines has a history of mining disasters due to accidents brought about by "fundamental design mistake" (Lavina in Dela Cruz, 2017), government lapses, and vulnerability to natural disasters that can adversely affect mining operations. The most infamous was the 1996 Marcopper Mining Corporation's disaster in Marinduque Island (MiningWatch Canada, 2005), which took place a year after the Philippines legislated its Mining Act of 1995 that liberalized its mining industry. Marcopper's open pit drainage tunnels ruptured and tailings impoundments collapsed, spilling millions of tons of mine waste into a major riverine system in the island. The Canadian mining company Marcopper has never apologized for the damages incurred to Boac River, property and lives lost. Instead, the company sold its shares to a local partner which does not

have the financial resources and technical capacity to clean up the devastation it left behind (Coumans and Nettleton, 2000).³

Five more mining accidents involving mining companies have occurred since then. These include the 2012 Padcal mining accident in Benguet which involved Philex Mining Corporation. Due to tropical typhoons Ferdie and Gener, its tailings ponds had a series of leakages (Dela Cruz, 2017). The wastes spilled into the nearby Balog creek, which flows into the Agno River and the San Roque dam. Incessant rains were also considered the cause of a landslide that killed at least five people in Semirara Mining Corporations' coal mine site in Caluya, Antique, (Rappler, 2013) and the cause of the silt spilt in Toronto mine of Citinickel Mines and Development Corp. in Narra, Palawan. It was reported that, except for Marcopper, most companies that had mining accidents have continued to operate in the country (Landingin and Aguilar, 2008, 2012). Similarly, small-scale mining communities that are illegal and unregulated have had incidences where monsoon rains caused landslides claiming several lives each time. Foremost among these disasters have been in Compostela Valley in Southern Mindanao where landslides have become so commonplace that in 2012 the government declared the region a geo-hazard site (Pagulong, 2012).

When such mineral operations, earthquakes, volcanic eruptions, landslides, monsoon rains and typhoons are combined with a long history of armed conflicts, such as in Mindanao, the outcomes of mineral development are highly unpredictable. In Northeast Mindanao, the Communist Party of the Philippines/New Peoples' Army which simultaneously attacked three mining companies in Claver, Surigao del Norte, gave three reasons for their attacks: environmental damage,

³ A similar case also happened in OK Tedi, Papua New Guinea when BHP Billiton also abandoned its copper and gold mining project by transferring its share to an offshore development trust (Kirsh, 2002).

displacement of Indigenous peoples and violation of workers' rights.⁴ The military, however, attributed these attacks to the mining companies' refusal to pay a revolutionary tax to the NPAs saying that they are "soft targets" (Caliguind, 2011). In Southeastern Mindanao, a B'laan tribe declared a red *pangayaw*, a tribal war involving one tribal group of B'laan against another, and also against foreign-owned Sagittarius Mines Inc-Xstrata and the government for selling out their ancestral lands (Ambay, 2016; Zonio, Dinoy & Lacorte, 2012).

Indeed, mining is more fun in the Philippines (pun intended).

1.1 Mineral Liberalization in the Philippines

As a highly mineralized country, the Philippines has 30 percent of its total land area with concentrated retrievable mineral resources estimated to be potentially worth between US \$800 billion to one trillion. Yet only 2.7 percent of this area is covered by mining permits or contracts, with just 0.32 percent in the development or operating stage (NEDA, 2011, p. 309). To develop its resources, the country implemented a mineral liberalization policy with the passage of a new Mining Act in 1995. The government argued that the underutilization and mismanagement of the country's abundant natural resources had been a major cause of poverty. It views mineral liberalization as a solution to the country's economic woes, with the potential to pay off its external debt. Such a policy of mineral liberalization was also a condition of the World Bank/International Monetary Fund's (WB/IMF) structural adjustment program that sought and demanded the catalyzing of countries' economic growth and community development (World Bank Country Assistance Strategy, 2003-2005) through neoliberal development agenda (i.e. rapid deregulation, privatization, trade and investment liberalization) (Bello, 1999; Rovillos and Corpus, 2003).

⁴ The companies were Taganito Mining Corp. (TMC), Taganito HPAL Nickel Corp. and Platinum Group Metals Corp. (PGMC).

Because the “productive use of the country's rich mineral resources... has been affected by environmental issues and social distrust” (NEDA, 2004 p. 41), the Mining Act of 1995 included principles of sustainable development. The Act stipulated provisions for the fair sharing of economic and social benefits among the state, the company and the affected communities. Although the Mining Act allows 100% ownership of foreign investments and investor-friendly tax incentives, the Act also required companies to develop and implement both an environmental protection and enhancement plan and a social development management program (SDMP) for the host and neighboring communities. Mining companies are required to allot one percent of the mine and milling costs annually for SDMP. If the mining project is within Indigenous territory, mining companies are also required to allot an additional mining royalty to the affected Indigenous community of at least one percent on top of the SDMP (Republic Act No. 7942 Ch. 10, Sec. 57-58). These legal provisions were unprecedented, as previous mining laws in the Philippines did not include regulations for environmental protection and social development. Historically, the Philippines’ mineral industry had been established primarily to serve the colonial and expansionist interests of Spain and the United States (Lopez, 1992; Tujan and Guzman, 2002). More recently, its mining industry has served to meet the raw-material requirements of other countries, particularly Japan, Western Europe and China. With the Philippines as an export-oriented and import-dependent economy, concerns for economic growth and development took precedent. Environmental protection and social and sustainable development in mining only recently became important following a series of mine tailings dam collapses mentioned earlier in the chapter, and ongoing corporate disregard for the environment and affected communities in the country and elsewhere.

The new Mining Act’s progressive legal provisions, however, have failed to achieve equitable sharing. Communities have continued to be significantly affected by mineral

liberalization. This study argues that the Canadian-owned TVI Pacific's Canatuan mining project in the island of Mindanao, Philippines adversely affected the community in that area. Classified as a junior resource company in Canada, TVI Pacific had moved its business operations to the Philippines to take advantage of the liberalized mining policies (TVI Pacific, 1997).⁵ In 1994, TVI acquired mining rights to extract minerals in Mount Canatuan, a move which was strongly opposed by existing communities in the area. The Indigenous Subanon community has regarded the mountain as sacred and large-scale mining threatened to destroy it. To the thriving small-scale mining community in the area, TVI's mining project meant an end to their livelihood and survival. Despite these issues, in 2004 the company began to commercially extract gold and silver. TVI's Canatuan mining project was the first foreign-funded mining project that began operation after the Philippines legislated its Mining Act of 1995. It was regarded as one of the country's 21 flagship mining projects. It was considered a litmus test for companies that were considering investment in the country (Rovillos and Corpuz, 2012) and as "the barometer for success of other mining companies" (Sutherland in Rovillos and Corpuz, 2012, p. 131). In 2006, both the Philippine and Canadian Governments hailed TVI as a responsible miner for its environmental program.

While the mining project appeared successful to those outside of the area, it was destructive to the communities in the area and to the landscape. The project desecrated Mount Canatuan, which the Indigenous Siocon Subanos have revered as a sacred mountain. TVI contended that the mountain was "devoid of any Subanon archaeological or cultural materials" and that "there was no evidence found of any historic or prehistoric religious practice, at any time" (Mateo, 2008). However, the

⁵ As a Canadian company operating abroad, TVI Pacific also enjoys Canada's favorable investment support through: 1) tax deductions in interest expenses incurred on borrowing in Canada or offshore for investment in shares of a wholly or partly owned foreign subsidiary; and 2) annual deductions with a minimum of 10 percent and up to 100 percent of its unclaimed exploration and development expenses to the extent of its foreign resource income (Brewer et.al. 1999).

company provided no indication that it conducted a cultural or anthropological assessment of what *sacred space* means to the Subanos, a failing which suggests a need for more diligence during the exploration stage. In addition, to gaining approval to mine in the area, TVI delegitimized a tribal chieftain and thereby manipulated the Indigenous governance system. The company argued that the chieftain was “a leader repudiated by the majority in the Subanon community,” who was being “used repeatedly as a figurehead for a campaign being waged for some time by external, non-Subanon, political groups both national and international, opposed to mining in general, to stop mining operations in the Philippines and in Canatuan” (Mateo, 2008). In 2011, however, TVI Pacific “finally and publicly admitted its fault” (Gulang Gukom, 2011) to the Siocon Subanos for these two issues. By that year, the company was already nearing full extraction of its sulphide mines.

It is to be noted that in mining Subanon land, TVI made use of heap leaching and operated on a standard cyanidation carbon in pulp/carbon in leach (CIL/CIP) mill with both the gravity circuit, and Merrill-Crowe plant (Norwest, 2004; TVIRDP, 2005; Fabila, 2006; TVI Pacific, 2007).⁶ The former yields better gold recoveries than the traditional filtration/Merrill Crowe process at lower capital and operating costs (Fleming, Mezei, Bourricaudy, Canizares, & Ashbury, 2011). TVI also made use of sulphuric acid leaching for copper oxide ores.⁷ The gold extracted in Canatuan is high grade.⁸

⁶ Cyanide is used as lixiviant or reagent to leach gold due to its relatively low cost, great effectiveness for gold (and silver) dissolution, and selectivity for gold and silver over other metals (Marsden & Lain House, 2006). Through heap leaching, gold cyanide complex is formed, which is then extracted by adsorption onto activated carbon.

⁷ Three types of chemistry are used in heap leaching namely, sulphuric acid leaching for copper oxides bearing ores, alkali cyanide leaching predominantly of gold/silver ores and oxidative sulphuric acid leaching of secondary copper sulphides (Petersen, 2016).

⁸ By 2006, the gold and silver feed grade fell, however, the tonnes of ore that were processed increased resulting to an increased in gold and silver production. Gold recoveries also increased that year which also increased TVI's revenues (TVI Pacific, 2006).

In 2014, the company announced the closure of its Canatuan mining project, boasting that between 2004 and 2013, it had contributed CA\$ \$20,830,400 to the Municipality of Siocon government with 50% going to social development costs and the rest to taxes. It should be noted that when TVI purchased its Canatuan property in 1994 it was at only US\$ 1.4 million. It began to make profit in 2006 and paid off its debts in the succeeding years. In 2013 alone, TVI's final year of operations in its Canatuan mining project, it made a gross revenue of US \$50,732,184 in its last year of operations in its Canatuan mining project.

However, financial contributions are only one aspect of mineral liberalization's effect on communities in Mindanao, Philippines. The full impact must be assessed.

1.2 Research Questions and Arguments

The Philippines' mineral liberalization policy can bring immense economic benefits. However, it can also bring associated economic, social, political and environmental costs. These need to be considered. The impact of mining does not affect communities evenly. Social groups are politically, socially, and economically differentiated. Some groups may have greater say as to what happens to their ecosystem, while others have little or no say. In either case, local people are confronted with challenges as to how to engage with mineral liberalization through their practical and discursive interactions with agents of mineral development, with representatives of other external institutions such as governments, non-government organizations, and the academe, and with each other. As Roseberry (1989) notes, there is a need to pay greater "attention to social differentiation, to social and political inequalities that affect actors' differential understandings of the world, other people and themselves particularly within processes of uneven development" (pp. 13-14). Further, Horowitz (2003) observes that focus should also be given to "intracommunity dynamics" that shape people's responses to local manifestations of the global activities of economic development

(p. 14). It is also important to conduct a political economic analysis that considers that extractive development projects (mineral liberalization) have global and national economic and political sources that have significant effects on the locale and its environs.

In this dissertation I address the following broad research question: Will the Philippine's government's mineral liberalization policy and legislation bring sustainable development to Mindanao communities? In its specific focus and inquiry, I ask the following three questions: When small, upland communities in Mindanao that are heavily dependent on natural resources encounter neoliberalism and its development agenda that promise huge economic and socio-political benefits,

- 1) What are the social, cultural, economic and political impacts of mineral liberalization policies in the actual large-scale mining by a foreign company?
- 2) What intracommunity conflicts are generated with the entry of large-scale mineral development in mining operations?
- 3) What are the outcomes of community actors and subgroups' interactions with the mining project company and with each other?

In this study I argue that the neoliberal policy underlying the Mining Act of 1995, and specifically the mining operations of TVI, had adverse, even devastating, social, cultural, economic, and political impacts on communities in Mindanao, particularly among the Subanos. More specifically I argue that the Philippine State's neocolonial and neoliberal ideology that underpins the state's mineral liberalization policy is blind to Mindanao's history of extractive development. In turn, this blindness caused adverse and often irreversible damage to Mindanao's environment and communities. I contend that the state's ahistorical, simplified conceptualization of community both ignores and disregards Mindanao's historical context and cultural diversity. Such simplification has created complex patterns

of inclusion and exclusion in communities, further reinforcing existing economic and social inequities. After considering the foregoing factors, I argue that, with political dimensions at work at various levels, mineral liberalization will not only not bring the promised sustainable development to Mindanao and its communities, but it will also worsen conditions for the people of Mindanao.

Figure 1-2. Historical timeline of laws and policies on mining and developing Mindanao

In following the (un)intended, (un)anticipated, (un)acknowledged, (un)recognized consequences of mineral development, this dissertation involved a recursive process of examining the past and the present, zooming in on micro political dynamics on the ground, and zooming out to gain meso and macro perspectives to better understand the widespread impact of mineral liberalization. Critical to examining these different levels of analysis is paying attention to state laws and policies that were legislated and implemented by various government administrations, and the development discourses that were generated in developing Mindanao's vast track of land and resources (e.g. timber and minerals). I treated the governments, laws and policies as backdrop and context and, at the same time, viewed statutes as instruments of change that altered Mindanao's landscape, culture and peoples as shown in Figure 1.

Such an approach has been integral in conducting both the research and the writing of this dissertation and in reaching the conclusion that the Philippine State is historically biased towards foreign-owned companies and large-scale mining. A closer reading of each of the statutes in Figure 1 also shows that the gold mining industry specifically, and the mining industry generally received significant favourable treatment from the government in the form of subsidies to gold and copper mining companies, and other fiscal and non-fiscal government measures from ownership rights to policing. A few of the legislated mining laws were simply unrealistic in stating that after mining the environment would be restored to its natural state (e.g. Presidential Decree No. 463). The law that was meant to protect the interests of Indigenous peoples, whose ancestral land and domain have hosted logging and mining activities of outsiders since the American colonial era, came only after 100 years of exploitation towards the end of 20th century. Armed conflicts, population displacement, and environmental degradation, then, represent only several of the many adverse consequences in developing Mindanao.

1.3 Area of Study and Research Methods

TVI's mining site is located in Sitio Canatuan, Baranggay Tabayo in the province of Zamboanga del Norte in Southern Philippines.⁹ It is situated in the foothills of Mount Canatuan, which is regarded as sacred by the Indigenous Siocon Subanos in the Zamboanga Peninsula. *Canatuan* is derived from the Subanon word *konotuan*, which is a metaphor for life being cut short, like a leaf that is clipped from its stem, as the Subanon say. In the past, it is said that the enchanted Mount Canatuan claimed the lives of Subanon who climbed it in their travels or in pursuit of game. They would either die or simply vanish in the forest. It is said that one of their ancestors made a covenant with the Immortal Being who resides in the forests on the mountain. He promised to protect and revere Canatuan in exchange for the Subanons' safe passage into the mountain. Thus, it became sacred ground where the Subanon pray and perform sacred rituals (Sanz, 2007).

Approaching TVI's Canatuan mine site (see Figure 1-3), one meets a Special Civilian Armed Forces Geographical Unit Active [CAFGU] Auxiliary (SCAA) checkpoint stationed at Malusok.¹⁰ The guard on duty accosts visitors and residents known to be critical of the mining



Figure 1-3. Map of Canatuan community drawn by Raul Furugay, a former small-scale miner, who assisted me in my research.

⁹ A barangay is a village which has at least 2,000 inhabitants in rural areas, whereas a sitio is like a hamlet that is part of a barangay (Republic Act 7160 Book 3, Ch.1 Sec. 386).

¹⁰ SCAA elements are subject to military discipline and the Articles of War but are not disciplined or trained as soldiers or police. SCAAs primarily serve to protect the property and interests of private corporations, business entities or Local Government Units, which provide their logistical needs such as arms, ammunitions and even allowances. Thus, they will most likely be participating in activities that are contrary to state policy, and they could easily be used as

company's operations. He asks for their identification and purpose of entering the premises, and to sign on the logbook, and immediately radio the security head office. Once the person is cleared, s/he can proceed to the next checkpoint near the "skyline" where the school building and antenna are located. As one enters the mine development area, s/he encounters another checkpoint, and the same procedure is followed.

Beyond the last checkpoint towards the plant area, newly constructed houses and wooden sari-sari stores stand on each side of the road. This is the relocation area where most of the Subanon who favored or have agreed to compromise with the mining company are now residing. While on the other side of the plant area around the mountain facing east and situated below the extraction area in Canatuan is the community developed by small-scale mining. An old school building stands on a mount while smaller houses are clustered like limpets nearby. This is where opposition continues to thrive albeit waning as the number of small-scale miners is diminishing, and the Subanon community weakening. The latter is not only deeply divided, its cultural integrity is being challenged by powerful actors.

Sitio Canatuan is within the Municipality of Siocon which has 26 barangays, six of which lie in coastal areas. Siocon is one of the four coastal municipalities that form part of the "Triple S-B economy."¹¹ With a total land area of 50,320 hectares, Siocon Municipality is the rice granary of Zamboanga del Norte. It also yields the highest fish harvests from both offshore and fish-farm production in the region. Seventy percent of Siocon's labor force is engaged in agricultural farming

private armies of such entities mentioned that provide them with necessary logistics (Kraft. 2010, 194-195). The Philippine government established the SCAAs in 1989 after congress cut the budget for the Civilian Armed Forces Geographical Unit Auxiliary (CAFGU) programme. CAFGUs are civilian auxiliaries of the Armed Forces of the Philippines (AFP) and the Philippine National Police (PNP) that were established following the dissolved Integrated Civilian Home Defense Force (ICHDF) during Pres. Ferdinand Marcos' dictatorship to counter insurgency.

¹¹ Triple S refers to the municipalities of Siocon, Sirawai and Sibuco, while B refers to Baliguian. The triple S-B economy is endowed with vast land and fishery resources. Yet these four municipalities remain among the most (economically) depressed in the region.

and fishing. Beyond the coast are hills and mountains, an area of 31,669 hectares which are legally classified as forestlands and 108 hectares of Litoban watershed where Canatuan creek drains. This area encompasses the local watersheds, which support the considerable irrigation system not only in Siocon but also in the other Triple S-B municipalities (see Figure 1-4).

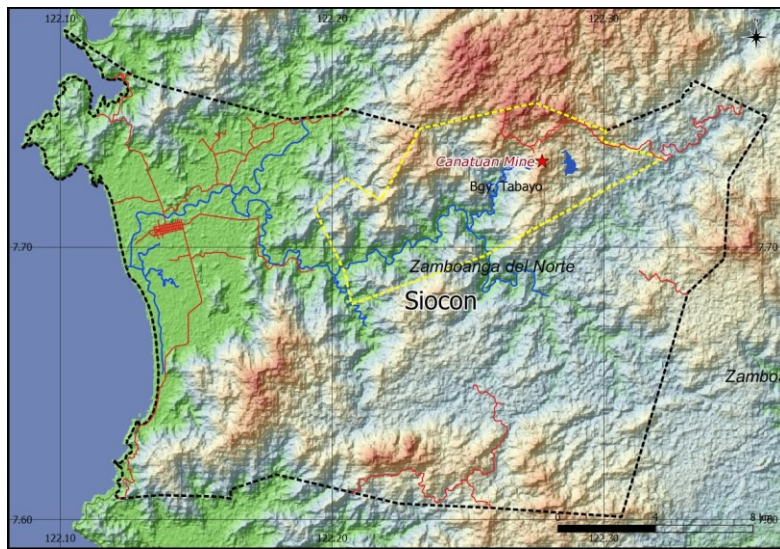


Figure 1-4. The Municipality of Siocon is between the Municipalities of Sirawai and Baliguian (A.F. Tongco)

Siocon's population composition reflects Mindanao's tri-people character. Christian migrant settlers constitute 74% of the population; Tausug and Yakan Muslims, 27%, located mainly in the coastal areas; and Indigenous Subanos, about 9%, concentrated in the hinterlands. The Subanos are the dominant group in

Canatuan, and constitute the largest number of Indigenous peoples in Zamboanga Peninsula. They are comprised of five sub-linguistics groups that belong to traditional territories. Due to mineral development, Subanos from other territories had migrated to Canatuan, like the migrant Christian settlers from other provinces, in the hope of finding livelihood or employment with the company. Through ethnographic fieldwork, I learned to distinguish the different sub-linguistic groups, members of which may or may not understand each other unless they speak Bisaya, the region's *lingua franca*.

In this study, I used an autoethnographic field methodology. My fieldwork began in December 2003, which mostly covers TVI's Canatuan project's gossan (gold-silver) mining phase (from 2004 to

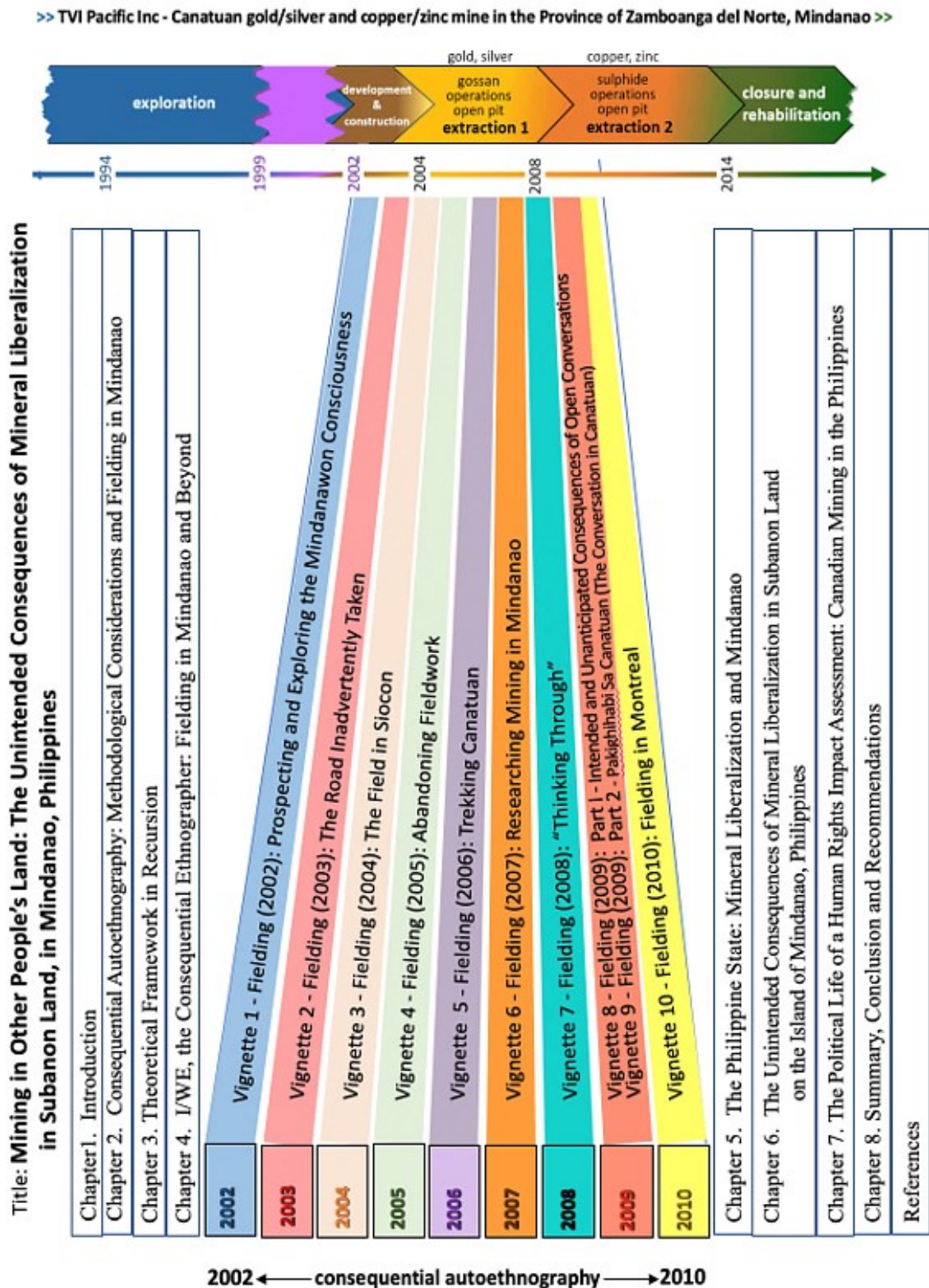
2008), and ended in September 2009. TVI's mining operations extended until 2013 when TVI finished its sulphide (copper and zinc) mining operations. Between 2003 to 2009, I witnessed the Apu Manglang Glupa Pusaka (AMGP) Subanos of Canatuan's opposition against TVI's mining operations that made them the public symbol for Indigenous struggle against the Philippines' mineral liberalization policy. I also witnessed how they considered changing their anti-mining/anti-TV I position. Towards the end of TVI's gold-silver mining project and commencement of its sulphide mining, the AMGP Subanos struck a deal with TVI for several reasons, foremost of which was the defense of their ancestral domain, whose development and management were being decided by invented Subanon leaders.

1.4 Organization of the Dissertation

This dissertation has eight chapters (*see Figure 1-5*). In Chapter 2, my methodology, I introduce and explain my concept and approach of consequential autoethnography. Consequential autoethnography arose from my curiosities about the consequences of purposive actions that were undertaken as part of and in response to the mining operations beginning from the local level and spiraling outwards to the international level. As I engaged with different actors whom I encountered in my fieldwork, I was then compelled to examine the anthropological notion of field, and how it is constituted in the context of Mindanao which needs a transformative paradigm. Thus, I argued for a critical reframing of "the field" as a verb to encompass the whole process of knowing, learning and engagements in the field as "fielding".

In Chapter 3 I present the two theoretical frameworks I used recursively in the course of my fieldwork and data analysis. The first theoretical framework is on unintentionality and unanticipated consequences. Here I have drawn from the works of sociologists Merton (1936), Beck (1999),

Figure 1-5. Graphic overview of the organization of the dissertation



Campbell (1996, 1999, 2015), Elster (1983) Giddens (1984), Mica et al. (2015). I also relied heavily on Sztompka's (2015) four-type typology of unintended consequences by combining motivational (i.e. intent) and intellectual components (i.e. recognition, anticipation, expectation and prediction). The second theoretical framework that I recursively used in my fielding was political ecology. I drew on the works of Bryant and Bailey (1997) with their concept of politicized environment, which outlines three outcomes of environmental changes. They argue that in any environmental change various actors have costs and benefits that are unequally distributed. Second, such unequal distribution of the costs and benefits of environmental change usually reinforce or reduce existing social and economic inequalities. Third, the resulting social and economic impact would also change the power relations among actors. These two theoretical approaches were dialectical. However, when used recursively, these lenses made me sensitive to the various types of consequences and their effects, and to make sense of what I was observing, more so when I was describing, analyzing and giving focus to what I was witnessing. In doing so, the whole process of bouncing back and forth between these two theoretical frameworks, I was also constructing and refining the focus of my observational lenses.

In Chapter 4 I have included 10 vignettes of my consequential autoethnography, which chronicle my fielding in Mindanao and other sites of local and global articulation (Marinduque Island, Johannesburg in South Africa, and Montreal Canada), and the period of liminality that any graduate student of anthropology goes through. This chapter tells the story of how I transformed from a mere observer, who had inadvertently taken a road beginning doing anthropological research as an assistant in mapping genealogies to becoming an active and committed participant towards the end of my field work. Fielding as research observations expressed in my writing my consequential

autoethnography, drawing heavily on my journals and other documents, was guided by the recursive use of two theoretical frameworks that I have mentioned earlier.

In Chapter 5, I examine the Philippine State's mineral liberalization discourse in the context of Mindanao's uneven underdevelopment and history of conflict. Here I argue that the community stands to benefit least from the Philippine's mineral liberalization policy due to two factors. The first factor is the neocolonial and neoliberal ideology that underpins the state's sustainable development framework. Such ideology informing the Philippine State's vision of and discourse about Mindanao as a resource-rich island is blind to Mindanao's actual history of development that resulted in adverse and, at times, irreversible harm to its environment and to the communities. The second factor is the state's ahistorical and simplified conceptualization of *community* that disregards Mindanao's historical cultural diversity. These two factors combined result in a complete disconnect between the national agenda of bringing an inclusive and sustainable development through mineral liberalization and the actual local realities of adverse mining consequences on Mindanao's diverse communities. Such a disconnect creates conditions for the inequitable distribution of costs and benefits of mining, tipped greatly in favor of the Philippine State and the company and against the diverse Mindanao communities.

In Chapter 6, I give attention to the unintended consequences of mineral liberalization policy and how such consequences play out in practice in the Canatuan case. Here I follow the impact of mineral development beginning with the exploration stage through until TVI Pacific's Canatuan mining project officially declared its closure.

In Chapter 7, I examine the political characteristics of a community based human rights impact assessment (HRIA) which I have co-authored and published with Robin Hansen, Associate Professor, College of Law, University of Saskatchewan, whose fields include public

international law, international trade and investment law, corporate social responsibility and tort law. [see Appendix x for CGPS guidelines on including co-authored published articles in dissertations]. Using an ethnographic analysis, we analyze how power and positionality not only shaped the construction and production of assessment, but further, as consequences, raise questions about how HRIA can be applied in practice in Indigenous communities facing prospects of negotiating with a foreign mining company.

The published article's inclusion in the dissertation is essential and necessary. On a macro perspective, the CBHRIA is a political consequence of mineral liberalization. As Canada's global mining presence became more prominent and dominant, reports about Canadian mining companies' behaviour abroad (e.g. Anvil in Congo, Goldcorp in Guatemala, Barrick Gold in Papua New Guinea, etc.) also became increasingly alarming, if not notorious (Bronson, 2005). The CBHRIA was a brainchild and effort of Canada's quasi-NGO human rights advocates, who, gravely concerned about how the host communities were being adversely affected by Canadian mining companies, sought ways in which their human rights would be respected and protected.

The impetus for the creation of the HRIA can be likened to the environmental impact assessment's (EIA's) creation and institutionalization in the 1970s, which was a response to environmentalism. EIA was aimed at minimizing the negative impact of human activities on the environment. The HRIA, which was based on the international human rights principles and conventions, intends to pre-empt human rights abuses by alerting stakeholders about both potential problem areas and benefits of a project. It is also meant to complement the impact assessment and due diligence processes of governments or companies before, during and after an extractive project is implemented. When the Philippines CBHRIA was conducted, the United Nations Human Rights Commission had yet to settle divisive debates on the human rights

responsibilities of businesses. In 2011, after more than three decades of effort to create a global human rights standard for businesses, the United Nations unanimously endorsed the UN Guiding Principles on Business and Human Rights, which were developed by the Special Representative of the Secretary-General John Ruggie. In this landmark document, the conduct of human rights impact assessment is integrated and has to be undertaken at regular intervals because of the dynamic nature of human rights situations.

Chapter 7 also provides meso analysis on the outcomes of community actors and subgroup's interactions with the mining company and with each other. It presents a broader picture of my Vignette 5- Fielding (2006): Trekking Canatuan, which provides a micro and personal perspective in conducting a pioneering CBHRIA. In writing this published article which entailed extended discussion and numerous drafts, my contribution encompasses 72.5% of the article's content, while Robin Hansen's writings comprised 27.5%.

I conclude my study in Chapter 8 by revisiting the three research questions with which I began to investigate the impact of mineral liberalization. Here I discuss "impak!" – the way I heard locals pronounce impact – to demonstrate the contribution of consequential autoethnography for investigating and documenting the effects of the first foreign company mining project that began operating under the Philippine's 1995 mineral liberalization legislation. While doing autoethnography takes significant length of time and extensive fielding, it allows me as a researcher to recursively shift my lens among the macro-, meso- and micro-levels of analysis, including my own (hence the auto in autoethnography) interior transformations. I first foreground the unintended consequences of mineral liberalization by highlighting the Indigenous Subanos' agency and their changing contexts. This highlights how the Philippine State's mining policy, in combination with other development policies it had

implemented in the past, invited and permitted large scale foreign company mining that resulted in successive degradation of Subanon land and the destruction of their sacred mountain. It also shows the interconnected and spiraling adverse consequences for the Subanon Indigenous political and governance system. There is also a mismatch of scale of economy, development and technology as well as sense of size, time and communication which puts Subanos at complete disadvantage. I show the disparity between the mining company's large profits and the meagre funds allocated for the Subanos and the Philippines. I conclude that mineral liberalization in actual operation produces such adverse and devastating consequences that it calls into question sustainable development of such mining operations and notably with counter-finality. In short it does not comply with the twin pillars of sustainable development, which is anchored on principles of intergenerational equity and intragenerational equity.

In the second section, I examine my notion of consequential autoethnography, with attention to changes in my self-understanding as a social researcher and influences that evoke critical reflection on my shared humanity. I elucidate my motivation in becoming increasingly engaged as a social activist researcher in solidarity with the oppressed and the vulnerable. During my fielding I interacted with the Subanos and others at the local, national and international levels. Their stories became interwoven with mine as we continued to chip away at that big boulder of social injustice, an evolving story of purposive actions as individuals and as a collective in ongoing response to contexts of consequences. I conclude my discussion of "Impak!" with an aerial view of Mount Canatuan, 5 years after mine closure.

CHAPTER 2

CONSEQUENTIAL AUTOETHNOGRAPHY: METHODOLOGICAL CONSIDERATIONS AND FIELDING IN MINDANAO

In framing this section of my study, I recall my March 2006 conversation with Paring Bert, a Jesuit priest and Mindanawon's executive director. We had just had a briefing from a foreign donor agency development officer, whose field assignment and development projects were mostly in Zamboanga region. A few days earlier, Paring Bert and I flew to Dipolog City to meet with representatives of the Philippines consortium, which was among the five case study proponents chosen by Rights and Democracy, to test its pioneering community-based human rights impact assessment (CBHRIA) instrument. We wanted to clarify some issues, although, in principle, we had already agreed to coordinate all research activities of the Philippines CBHRIA consortium. The consortium was composed of Indigenous and grassroots organizations, and civil society organizations at the local, national and international levels.

We needed an independent view from someone, who had been working in the region and who was familiar with the politics and political agenda of each member of the consortium, a collective vis-à-vis layers of contestations in Sitio Canatuan, the human rights impact assessment, the mining industry. In taking stock of what the development officer had told us, we confirmed the impression that Mindanawon or I, specifically, would most likely be caught in the middle of a maelstrom. Personally, I had encountered the animosity of both pro- and anti-mining groups in Canatuan, Siocon and at the national level.

I, then, asked Paring Bert, “nagsisi ka na Pads kung bakit natin kinuha (do you now regret that Mindanawon took on the research project)?”

I was also asking myself that question. Inwardly, I was making a vain effort of passing on this “cup of blood” by deflecting to Paring Bert the command responsibility of conducting a politically-charged research assessment on human rights. I knew that once I am back in the field, the responsibility of conducting a credible community-based human rights impact assessment is going to be entirely mine. It will be on my shoulders long after the project is concluded. I will also be the one encountering hostilities and negotiating diverse interests in producing new knowledge.

In 2005, I had already twice declined an invitation to be the Philippine consortium’s research coordinator. I recognized and verified that Canatuan and Siocon had all the elements of highly politicized and violent environments. Furthermore, conducting research in the name of “human rights” from the vantage point of the “community” – actually a heterogeneous, complex and conflict-ridden context – with civil society organizations (CSO), considered “heavy weights” in oppositional politics in the Philippines and abroad, further heightening both risk and danger. Paring Bert’s invitation compelled me to reconsider the research coordinator position for the third time. That late-night conversation in Davao City with a foreign donor agency’s development officer had shed more light on the conflict and controversy in Canatuan, including the shifting interests and relations among actors. During that period, TVI was already generating revenues. Another donor agency working in the area had also expressed its appreciation of how the company was trying to follow the law (Field notes March 15, 2006 & March 24, 2006).

Paring Bert replied, “Hindi. Kailangan sundan iyong pinangalingan and where they end up.” (No. We need to follow how it all started and where they end up) (Field notes, March 24, 2006).

This was the seed of my notion of consequential autoethnography. It germinated unintentionally underneath my multi-layered and multi-perspectival research engagements with

the Subanos and several other actors who were located in various geographical locations, political persuasions and economic interests.

2.1 Some Considerations in Following Unintentionality

In spending days with several members of Philippines' CBHRIA consortium in Dipolog City, I also came to terms with my own experience of human rights abuse. It was not until I was conversing with a British NGO worker that I recalled that some of us student leaders in Davao City were strafed by the military. I told the NGO worker that in college we were holding a peaceful candlelight procession in protest against the oil price increase because it would affect our tuition fees. We knew that with any increase in the oil price, our student constituents would be forced to drop out of school. Or tighten their belts literally because in order to remain in school, students would rather go hungry. We were already halfway through our route when suddenly the military swooped down on us, firing their machine guns. Though several of us were wounded, no one was killed.

“That was a violation against your human rights,” he said.

“Oh. But, no one was killed,” I replied, perplexed that he considered such attack a human rights abuse.

“Penny, that was still human rights violation,” he explained when he saw that I did not get it.

“But no one was killed,” I insisted.

It was only then that I recognized my desensitization and high threshold for human rights abuse. Only when somebody was killed did I count that as a human rights violation. In reflecting on my assumptions, I took stock of the aggregated outcomes of the historical, structural and systemic violence and oppression in Mindanao society. My desensitization to assaults against human dignity and rights made me aware of a normalization process whose beginning I cannot

remember but resulted in numbed sensitivities.¹² Am I to assume that such normalization of a dehumanizing process that resulted in my desensitized consciousness is only confined to my own experience? Or is this also a collective consciousness taken for granted? I recall my encounter with a priest who played the harp in Siocon to relieve his anxiety in recalling the siege; my fieldwork among the Subanos of Midsalip where I met a man who has been tortured by communist rebels, or one of my orphan students whose nickname was “Ope,” short for “Operation,” because she was born during a military operation that claimed the life of her mother? The nation’s geo-political center has its own level of desensitization or even blindness to the terrible conditions of violence in the Southern Philippines, shrugged off causally as “the Mindanao Problem”.

Conducting a community-based human rights impact assessment is also a consequence of a phenomenon that spiraled from the local level to the global scale (Sanz and Hansen, 2018).¹³ Due to the combined effects of the global mining industry’s history of adverse economic, environmental, social and cultural impacts on communities and the recent neoliberal agenda of mineral liberalization, the Canadian Government was compelled to support Rights and Democracy’s initiative to elevate the corporate social responsibility of Canadian mining companies operating abroad through a community-based HRIA. What would the consequence of this initiative be for communities, which most likely also have their own experience of individual

¹² I would attribute my desensitization to at least three factors. First was for having been born and raised in Davao City when one would wake up to news being broadcasted that a body was found at this street or highway. Determining who was killed by whom was only through the number of bullets the body sustained. One bullet in a body would indicate that he was “salvaged” by the rebels while those that have multiple bullets would mean it was most likely the handiwork of the military. The term “salvaged” is a local parlance meaning summary killings since most dead bodies were found along Davao City’s Salvation Highway. It was also not a surprise to my family that a body was also found outside my grandparent’s compound. Second, my family members were victims of a bombing incident that took place in a Roman Catholic Church in Davao City where scores were killed. Third, evacuees (now referred to as internally displaced persons) due to heavy fighting in the countryside would find themselves in our city as helicopters would be flying intermittently in and out of Davao City.

¹³ See also House of Commons, Sub-Committee on Human Rights and International Development of the Standing Committee on Foreign Affairs and International Trade, Evidence, 38th Leg, 1st Sess, No 12 (23 March 2005) (Chair: David Kilgour) at 3–6 [House of Commons, “Human Rights Sub-Committee”], online: <www.parl.gc.ca/HousePublications/Publication>.

and/or collective human rights abuse through violence? Are they also like me, who, until my conversation with a British national, was desensitized to what level of violence comprises a human rights violation?

Based on my earlier fieldwork among the Subanos, I know the field I am heading to is a combination of politicized environment (Bryant and Bailey, 1997) and violent environment (Peluso and Watts, 2001). The Subanos are far shrewder than outsiders believed them to be. They would not hesitate to retaliate, confronting violence on its own terms. In fact, they are very creative and resolute in exercising their agency when dealing with outside threats. How then should I situate their participation in the CBHRIA, especially in following the purposive actions they have taken in the past? I am well aware that one purposive action alone can have many consequences. It would be challenging to determine which consequences had occurred from which actions, considering that the further back a consequence occurred, the less obvious would be its link with an action taken purposively. Another challenge is that there were several actors who were interacting and involved, thereby suggesting a complex of intentions that guided a purposive action (Baert, 1991). Also, the motivations and intentions of actors are often revealed only in retrospect and they are continually being reassessed and rationalized (Baert, 1991).

Keeping these challenges in mind, I reflected on my time and research activities in “the field”. In my fieldwork, I drew on a number of qualitative methods: participant observation, genealogy, mapping, story-telling, key informant interviews, focus group interviews, life story, and textual analysis of various materials (fact-finding reports, in-depth journalistic investigations, government reports, feasibility studies, audited financial statements, management discussion and analysis, company annual reports, reviews). Ethnographic researchers are adept at “deploying whatever strategies, methods, or empirical materials are at hand” (Denzin, 1996, p. 130). In doing so,

she became a *bricoleur*, and her project, a *bricolage*—a concept that first appeared in Levi-Strauss’ *The Savage Mind*. The bricoleur is a “jack of all trades or a kind of a professional do-it-yourself person” (Levi-Strauss, 1966, p. 17), who makes do with whatever is at hand to create her bricolage. The intellectual bricoleur “constructs syntagmatic chains out of the stock, each of which reveals some aspect of a society as a totality” (Weinstein & Weinstein, 1991, p. 162). She also maps out heterogeneity and seeks “whatever orders of homology and analogy can be discerned from it, and rejects meta-narratives and deep structures” (Weinstein & Weinstein, 1991, p. 162).

However, once “in the field,” – a fluid, continually being constituted space of conducting research – I realized that the Malinowskian fieldwork design, inculcated in any student of anthropology, didn’t fit “the field.” At least five factors played into my realization. First, my study on mining and its impacts on the Subanos began even before I realized it. I had a different research agenda and field site in mind. In stumbling on this research, I allowed events to unfold and draw me in, without any expectation that rapport and trust would subtly and quickly form between my future “subjects” and me. Second, my research was underpinned by convictions of transformational liberation, an orientation grounded in principles of action research, particularly critical participatory action research. This social science methodology has roots in Paolo Freire’s *Pedagogy of the Oppressed* and liberation theology. In “the field,” I came to realize major influences shaping my orientation. Engaging in dialogue and collaborating with various actors were critical in finding pathways to peace, based on understanding Mindanao’s diverse cultures and troubled landscape. Such a stance and value-orientation are an aggregated mosaic fitted together from being born and raised in Davao City, shaped by my education, gender and experiences in working in the fields of Mindanao. This personal sense of social justice and activism grounds my ethnographic work, the resonances and congruences that guided me in

following unforeseen and unintended consequences of mineral liberalization. In reflection, these values also led me to rethink the notion and practice of “the field” and fieldwork as nouns, particularly in the context of Mindanao and from the perspective of a Mindanaoan. Third, my background is interdisciplinary for which the anthropological ethos is significant yet only one part. My analysis and investigation of the unintended consequences of mineral liberalization in the Philippines represent a topical domain that anthropology has yet to clearly define within its disciplinary sense of purpose. Thus, I felt a need to rethink the idea and practice of “the field” and fieldwork, especially given my aim is to follow unintentionality in the fields of Mindanao, that so-called “backwater” area in relation to the nation’s geopolitical center. In rethinking “the field” and fieldwork in a post-conflict area, I needed to question what “being there” meant beyond the anthropological sense. Is it only for knowledge’s sake when every act of returning to the field is always a decision – to continue following the consequence or not? Fourth, mineral liberalization, as one of the effects of second modernity, was taking place in Mindanao, a place in a perennial state of uneven and under-development (World Bank Philippines Country Management Unit East & Asia Pacific Region and International Finance Corporation East Asia and Pacific Region, 2005; APRAAP, 1995; Abinales, 2007). Mindanao has layers of postcolonial realities vis-à-vis its diverse cultural and Indigenous populations with different worldviews, perspectives on relationships and value system. Fifth, Siocon is considered a post-conflict area, which means that although open warfare had come to an end, it remains tense for years and can easily fall back into large-scale violence (Junne and Verkoren, 2005, p. 1). The context of “the field” – highly volatile, further politicized by mining intervention and its many unexpected consequences – became the crux of my research. That meant not only entrusting my life to the people with whom I was working in the community, in the same way that they have entrusted me

with their stories disclosed in confidence of friendship, it meant developing and relying on a sense of intuition in negotiating “the field” daily.

Reflecting on the challenges of following unintentionality, I realized that there should be a different way of viewing researching and understanding “impak” (as the people I met in the field would pronounce “impact”). I have named my approach consequential autoethnography. This approach may easily be mistaken for “accidental autoethnography” in the sense of “paying systematic attention to the unplanned moments that take place outside an interview, survey, or other structured methods” (Fuji, 2014). I initially conceptualized my approach, however, as “consequential ethnography.” I intentionally followed the consequences of collective action in the context of a mineral liberalization policy and actual mining operations. I did not focus on the accidental slip, the spontaneous discussion or unplanned moments that took place outside an interview. I embraced the assumption that resource conflict is messy such that the trajectories of individual and collective actions could go anywhere in relation to the life-cycle of the mine. Mineral development is an extractive project. As such, it is unlike the manufacturing and service industries in which products, goods and service are constantly being produced and reproduced. With extractive industries, once mineral resources are fully extracted, the project ends, is closed down and (ideally) rehabilitated. The mining company then moves on to another site to begin the mining life-cycle of prospecting, exploration, construction and development, extraction, closure and rehabilitation.

Consequential ethnography, then, is deliberately probing the consequences of purposive actions that were taken as part of and in response to the changing conditions during the lifecycle of the mine. These actions are constantly being revised, innovated, reinvented by social actors in response to the issues at hand and to the changing conditions and contexts with which they are confronted, including the shifting interests, relationships and dynamics within, between and

among social groups. I was interested in following and examining patterns of opposition, which start from being contained at the local level but then spiraled outwards, as grassroots actors seek assistance and help moving from the municipal and regional levels and eventually reaching out to the international level. I wanted to examine how actors shift interests and reverse their standpoints and decisions, with consequential effects rippling much farther than their line of vision.

In framing my methodology as “consequential ethnography”, however, I will be attending to and writing about the “Other”. “But any conception of an Other... has implications for the identity of the self” (Gupta and Ferguson, 1997, p. 16). Fieldwork has been viewed as a “rite of passage”, an initiation ritual for any anthropology graduate student to mature into a professional identity. Hence, Gupta and Ferguson (1997) suggest that we must also ask ourselves what kind of a social being that our fieldwork has made out of us. With this, I have repositioned my research as “consequential autoethnography” so that I may also interrogate what I think and believe, my value assumptions, and how I view “the field” itself as social constructed. This means attending to how I conducted my research which involved constituting “the field” itself in which the relationships I have formed in the process of my fieldwork, my intellectual and political influences shaped my terms of engagements and the decisions that I have made.

Admittedly, I am hesitant to take an autoethnographic approach. I agree with Ellis (2004, p. xviii): “Social scientists usually don’t write well enough to carry it off. Or they’re not sufficiently introspective.... Autoethnographic exploration generates... fears and self-doubts – and emotional pain.... Then there’s the vulnerability of revealing yourself.” Personally, I also dreaded self-absorption and “navel gazing” when I have more important tasks at hand. I wanted my research to “enable people to understand what is going on, and especially to provide ways of

thinking, strategies for survival, and resources for resistance to all those who are now—in economic, political, and cultural terms—excluded” (Hall, 1990, p. 22). My research is about telling the story of group of Indigenous people, whose lives, worldview and culture were altered because outsiders have stolen, sold and mined their land. Unlike the rest of the Philippines, Mindanao is culturally-diverse, conflict-ridden, and under-developed despite its rich natural resources. Mindanao is my home.

An autoethnographic approach is called for, even necessary, if the story is to be told of unintended consequences and complications of mineral liberalization in Mindanao for those involved, especially the Subanos. Perhaps, telling this story is even a moral duty. While this is the Subanos people’s story, through the paths I took, the work I did and the relationships they and I formed, I vie to tell their story as a behest of a Subanon chieftain. I see autoethnographic work as interventionist by paying attention to those who may otherwise not be allowed to tell their story, or whose voices have been muted (Denzin, 2014). Autoethnography is both a tool and an action of connecting (auto)biographies and lived experiences, epiphanies of lives, the multiple perspectives of subjects that were gleaned from fieldwork and interviews and highlighting their relationship to culture and cultural practices (Jones, Adams, & Ellis, 2013). In using this approach, I intend to contribute to a scholarly conversation about mineral liberalization and mining in Mindanao. I intend to situate my witnessing within a larger, macro-social context. I also intend to reflexively examine a part of my self as one engaging in and responding to social justice. Without the anthropological and “sociological imagination” which “enables us to grasp history and biography and the relations between the two within society (Mills, 1959, p. 6) and the notion of epiphany (Denzin, 2001), such critical connections would be difficult to grasp. As C. Wright Mills (1959) has put it, “scholarship is a choice of how to live as well as a choice of career” (p. 196).

With a mindset that “research is an extension of researchers’ lives” (Ngunjiri, Hernandez, & Chang, 2010, p. 2), then, I view autoethnography as a praxis of social justice (Toyosaki & Pensoneau-Conway, 2013). Given the “auto” of autoethnography, such a view may seem contradictory with the notion and practice of social justice as others-oriented appears in contrast to autoethnography as self-oriented. Autoethnography's constitutive nature, however, as Toyosaki and & Pensoneau-Conway (2013) assert, is that the act of seeking social justice also includes critiquing and interrupting institutionalized social injustice that pervades our everyday life in minute moments. Such an orientation is also about hoping for a better tomorrow in interaction with others in our lives. This hope is ever more salient for one born and raised in Mindanao, where poverty and incidences of armed conflict and violence are prevalent. Individual acts of justice, when combined with other individuals’ efforts to effect social change, can create ripples that produce a collective greater good.

In autoethnography, method and methodology are inextricably linked. I consider my dissertation and the research processes in which I engaged in producing it, as an act of social justice no matter how minute an action it is in chipping away at that big boulder of social injustice, poverty, exploitation and oppression that neoliberalism exacerbates. How I approached my research agenda, the theories and methods I have chosen to use had affinities with my childhood, values, the place I was born and raised, gender, race, class, and education. My politics, which first found expression and inspiration in Paolo Freire’s *Pedagogy of the Oppressed* and liberation theology with its emphasis on the preferential option for the poor and vulnerable, resonated with my experiences as a child of Mindanao. Here I observed inequalities among social groups and structural injustice resulting in intermittent armed conflicts and lives

that were lost or emaciated. Indeed, while an outsider may view my dissertation as an act of resistance, I experience it as a response to social injustice.

With autoethnography, I am opening myself to criticisms not faced in other ways of knowing and doing research. My hope is that whatever criticisms come as a result of making myself vulnerable by engaging and disclosing my personal experiences in the text, these critiques will also recognize and acknowledge the dialogic relationship of self and culture. A further hope is that my autoethnographic approach will invite conversation where audiences will engage with and respond constructively and meaningfully to my study.

Thus, I refuse to categorize consequential autoethnography as either evocative or analytic kind of autoethnography when its main goal is to change the world by engaging, taking action, and writing from both the heart and mind. The Western and Cartesian construct of compartmentalizing the heart and the mind, the spirit and the material has created enough mayhem on the Eastern and Indigenous way of life and perspectives of seeing and respecting others including mother nature and those unseen beings. Consequential autoethnography was conceived by following the trail of consequences of a neoliberal development agenda (i.e. mineral liberalization), which has political ramifications that extend from the colonial and neocolonial history of developing countries to the historic present of second modernity, on subordinated actors in the “backwater”. It is intended for taking account the powerful and their deeds that further disempowered and disenfranchised the poor and the powerless. It also means reminding the subordinated actors that their agency can and has creatively, constructively, and no matter how minute, contribute to an energy and movement that transform. Those small responses against social injustices in the everyday life like foot dragging (Scott, 1990), standing

still,¹⁴ the campesinos' daily ronda (Starn, 1992) etc., create ripples, which may turn into a wave that transforms discourses, mindsets, break down walls liberating themselves and others.

With such objectives, how data was gathered and written in the text needed the elements of both evocative and analytic autoethnography. The consequential autoethnographer not only accounts for the “intuitive leaps, false starts, mistakes, loose ends, and happy accidents that comprise the investigative experience” (Ronai, 1995, p. 421). She must also keep her “eye on the ball” that is, her analytic agenda which is directed toward theoretical development, refinement, elaboration, extension and revision (Anderson, 2006). She strives to sustain dialogical activities with others with the aim of informing and changing social knowledge about mineral liberalization. In this way, her textual self-narrative is disciplined by the collected data of her dialogical engagements and in-depth interviews (Karp, 1996; Anderson, 2006). To her, “ethnography is first experienced as a social intervention before it is transformed into a textual invention” (Alejo, 2003, p. 204). It is not an innocent practice because “the field” is “a clearing whose deceptive transparency obscures the complex processes that go into constructing it” (Gupta and Ferguson, 1997, p. 5). This is clearly so when one enters “the field” of Mindanao to follow the unanticipated consequences of an imposed government development agenda, and encounters an historical social injustice and intermittent armed conflicts. The array of research methods, approach, and writing would no doubt become performative, pedagogical, and political because it must challenge, contest, critique or endorse the official, hegemonic ways of seeing and representing the other (Denzin, 2006).

¹⁴ In 2013, Turkey was in tumult when protesters opposing the demolition of a park snowballed into protesting the 10-year rule of Turkish Prime Minister, which were met with state violence. However, after two weeks of protest actions and reprisals from the state, a new protest action began when performance artist Erdem Gunduz, stood for hours in Taksim Square staring at a portrait of Mustafa Kemal Ataturk, the founder of modern Turkey. Police did little to intervene until others began to join Gunduz, which led to detention of several people (Burnbaum, 2013).

The consequential autoethnographer is historically and locally situated within the processes of the social world she studies, never outside and above it. She is aware and follows the contending paradigms of qualitative methodologies and the need for a “new paradigm dialog” between the post-structural, post-poststructural, mixed-methods and science-based research (Denzin, 2017). However, she is most cognizant that as scholars and social scientists engaged in their paradigmatic debates, there are dead bodies piling up out there in “the field” of Mindanao, which go mostly unreported in the national dailies unless the number of bodies reach at least 10. She has to keep track (despite the many detours in following the unanticipated consequences) of her commitment to critical pedagogy and to the people. Consequential autoethnography produces a kind of scholarship that is about seeking avenues and pathways for change, actively collaborating with peoples to expose and critique human oppression, structural and systemic inequalities, poverty, and violence. It is also about creating open and safe spaces for conversations towards peace, which is not of the graveyard, but based on justice. With such objectives, the heart and mind – the evocative and the analytic autoethnographic approach – must simply go hand in hand.

2.2 Methodological Considerations and Constituting “The Field” in Mindanao

In examining how “the field” was and is being constituted and institutionalized in Mindanao, I came across Francisco Claver, S.J.’s keynote address to Filipino anthropologists in 1979. In “Philippine Anthropology: Challenges and Response,” Claver, the first Bishop of the Roman Catholic Diocese of Malaybalay, Bukidnon in Central Mindanao and also an anthropologist, addressed the context of any anthropologizing in the Philippines during Martial Law (1972-1986). He said that it was simply:

. . . the Philippines today! . . . our special political structuring and all that comes of it...the hard economic condition of our people. It means rampant militarization; the Mindanao secessionist movement; the utter, helplessness of our ethnic minorities; violence and threats of violence; land reform or better, its absence; development schemes that destroy rather than help people; the extreme vulnerability of our people in the face of their many unfreedoms. If these are only situational problems which someday the promised millennium will solve (and martial law is supposed to usher in that millennium), perhaps they are. But martial law or no martial law, there is the continuing problem of poverty, widespread, endemic, entrenched, and more than just quantifiable poverty, the institutionalized inequity of maldistribution of wealth and power (p.6). (Claver, 1979)

Nearly 40 years later, Bishop Claver's words are still descriptive of current conditions of Mindanao, as if nothing had changed since he gave the address. Although martial law was lifted in the mid 1980s, it was also replaced by an acute culture of impunity that prevails within the military. It is described to have rampant incidence of political violence, extra-judicial execution of journalists and leftist activists. It is linked to the government's counterinsurgency strategy (e.g. Oplan Bantay Laya in 2002 & 2006) (McCoy, 2009) that targets civil society organizations suspected to be "front groups" of the Communist Party of the Philippines (Alston, 2008). The culture of impunity also includes killings committed by the communist's New Peoples Army, which holds a system of "people's court", that presents a veneer of legality to what would better be termed vigilantism or murder, killings related to conflicts in Western Mindanao, the existence of vigilantism or death squad in Davao City. It is to be noted though that human rights violation that are related to the conflicts in Zamboanga Peninsula and the Sulu archipelago have received less attention than those that are related to the conflict with the Communist Party of the Philippines/New Peoples Army/National Democratic Front. In these areas, persons are abducted, arrested or extrajudicially executed for little or no reason. Witnesses also live in more fear than in other parts of the country (Alston, 2008).

Since President Ferdinand Marcos was ousted, the Philippine State has not done enough to address the problem or to protect the rights of its citizens. Such culture is attributed to the criminal justice system's failure to obtain convictions and deter future killings and human rights abuses and distortions in its priorities. Senior government officials use legal prosecutions against civil society organizations and political parties since they are falsely believed to be communist "front groups" (Alston, 2008).¹⁵ The culture of impunity also has historical roots. State terror is a neocolonial mechanism that began during the time of the Spanish colonizers who abused the natives for centuries. Under the American colonialization, a more sophisticated way of torture and extrajudicial killings of Filipino nationalist leaders and Moros became common, perpetrated by the Philippine Constabulary. Under President Ferdinand Marcos, the country was placed under Martial Law that created an environment of fear, violence and unresolved criminality (Sales, 2009). It ended when Marcos was ousted through people power, with the hope that succeeding government administrations would be able to restore democracy, the rule of law, and a working justice system. But Marcos' legacy of military rule finds expression to this day. The killing in the Philippines is "...corrosive in many ways. It intimidates vast numbers of civil society actors, it sends a message of vulnerability to all but the most well connected" (Alston, 2007). As it was in 1979, Filipinos remain extremely vulnerable to this day. Poverty and inequity continue to be institutionalized alongside the maldistribution of wealth and power amidst a worsening culture of impunity.

At least three features of Claver's address stand out as relevant to how the field is constituted and what quality of fieldwork social scientists must attain. First, as a Bishop in Northern Mindanao, he was deeply troubled by how Indigenous Peoples (there are 12 Indigenous

¹⁵ To further understand the culture of impunity, see the report of Philip Alston, the United Nations' Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions. He was the first outsider to examine the post-Marcos legacy of state terrorism marked by extra-judicial killings, high incidence of human rights abuses etc (Sales, 2009).

groups in his diocese) were used for “our theorizings and speculations on the nature of man and his cultures, and little of our insights have gone back to them for their own use or their own greater ‘humanization’” (Claver, 1979, p. 8). Second, he challenged anthropologists to make their presence felt both in high and low places, particularly in the theorizings of technocrats – *the planners* - and among the people themselves – the *planned for* - where the final decisions must be taken (Claver, 1979, p. 11). He urged them to present data with a truly holistic outlook which will lead to better and more humane decisions.

Third he exhorted change in anthropological methods of research, moving from participant observation to participant involvement. Participant observation, he said, is “too antiseptic... and quite narcissistic, geared more towards what the anthropologist can get out of people for his study than what people can get out of him” (Claver, 1979, p. 11). Social scientists should be caught up in the cultural process and “interact with people at a basic human level, and whether he likes it or not, influence that process and the people he deals with for good...” (Claver, 1979, p. 11). To him, it was ethically inescapable that talking about the problem, the setting and the challenges in social research “. . . means involvement with our people, with their thoughts, their life, not just as objects of study but as persons to help and cherish, to live with and work with, with all the tools and expertise that our discipline can offer (p. 12).” To Claver (1979), being involved is “as inevitable as the unfreedoms spawned by the dictatorial rule” (p. 12) then, and as much as it is today when the need for social justice has never been greater. It requires a new generation of engaged scholars and community leaders, who are committed to “expose and critique the forms of inequality and discrimination that operate in daily life”... because as global citizens, we are “no longer called to just interpret the world (as mandated by traditional qualitative inquiry)... but “to

change to world and to change it in ways that resist injustice while celebrating freedom and full, inclusive, participatory democracy” (Denzin, 2017, p. 9)

Last year, Denzin echoed ethical, social justice and critical inquiry methodological considerations not unlike those of Claver in 1979. He noted that the “historical present cries out for emancipatory visions, for visions that inspire transformative inquiries, and for inquiries that can provide the moral authority to move people to struggle and resist oppression” (Denzin, 2017, p. 8). That the pursuit of social justice is central to a transformative paradigm and qualitative inquiry that “makes a difference in the lives of socially oppressed persons” (p. 9).

Doing this juxtaposition ties Denzin’s challenge in 2017 to Claver’s powerful observations related to Mindanao nearly 40 years ago. As a contemporary sociologist (2017 article/whole issue Vol 23. No 1 of *Critical Inquiry*) Denzin is well-known and directly involved in mainstream qualitative inquiry in a global context. The impact of second modernity has globalized poverty, human oppression, discrimination and inequality that now also inundates advance societies, and no longer contained in developing countries (e.g. Philippines), which have been dealing with such effects due to the combined legacies of colonialism, authoritarianism, and neoliberalism in daily life. Such conditions have most likely compelled Denzin to call for a “sound partisan work that offers knowledge-based critiques of social settings and institutions” (Denzin, 2017, p. 9). This entails a performative, dialogical, pedagogical way of writing by a qualitative researcher who wants to examine the relationship between personal and community troubles, and the public policies and public institutions that have been created to address those issues (Denzin, 2017).

2.3 *Fielding*: “The Field” as Verb

It is from the foregoing context and vision of a transformative paradigm that “the field”, which is often conceived as a noun, can more appropriately and including agency be conceived as a verb. Thus, *fielding*. Such reconceptualization attempts to shed light on what happens when an ethnographer reaches the field.¹⁶

To elaborate my notion of fielding, I use the analogy of a baseball game where the term “fielding” is commonly used. It means being always literally ‘on your toes’ and ready to react when the ball comes toward you, stopping and throwing it to get an out or prevent a runner from advancing. When the other team is batting, all of the players must also field and support the pitcher. As a former varsity volleyball player in high school and college, being a setter (and the shortest one at that), I resonate with baseball’s notion of fielding. I orchestrated the team’s offense and operated with the spikers. I managed the cadence of the play on our side of the court and chose which spikers to send for attack. These tasks need tactical accuracy, swift and skillful appraisal of “open and weak spots” on the opponents’ side and my teammates’ positioning and adroitness when a set is being played out. I relied on my gut instincts, technical and scientific training and common-sense which were all learned, fine-tuned and melded together through long hours of training, hanging out and working together with my team members. These team activities and events allowed us to know more about ourselves and each other in terms of weaknesses, strengths and styles in receiving the ball and carrying out attacks (e.g. quick set, inside shoot, flare etc.). Intuitively, we also moved across the court and its layout with familiarity, confidence and, of course, caution to avoid crossing the centreline or touching the net, and following those other rules so as not to lose points and put us at a disadvantage. On a

¹⁶ Coleman and Collins (2006) note that the field is perceived in spatial terms that is mysterious owing to the fact that it is defined post hoc.

personal and collective level, we went through liminal periods (i.e., trainings, competitions), a threshold that we crossed until we attained a certain knowledge and skill. Teamwork not only became possible, but we also moved together with synergy and flow because of the deeper understanding and knowledge that we acquired of each other, during these periods of liminality.

“Anthropologists often speak, sometimes half-jokingly, of fieldwork as a ‘rite of passage’, a ritual of initiation...” (Gupta and Ferguson, 1997, p. 16). It is the state of “betwixt and between”, the liminal period that an ethnographer goes through in being initiated into the professional world. Turner (1967) wrote that the arcane knowledge or “gnosis” obtained in the liminal period is meant to change the inmost nature of the neophyte. “It is not a mere acquisition of knowledge, but a change in being. His apparent passivity is revealed as an absorption of powers which will become active after his social status has been redefined in the aggregation rites” (Turner, 1967, p. 102). There is a learning process and reaching and crossing a threshold that is associated with fieldwork. It demarcates a departure from old ways of viewing the world and entrance into new ways of thinking that may be counterintuitive and, hence, upsetting and troublesome (Meyer and Land, 2003). But does this threshold only begin when the ethnographer goes into the field and starts conducting fieldwork?

In posing this question, I find that thinking of “the field” as a noun is static, leaving out much of what actually occurs in the liminal period. It is critical to reframe “the field” as a verb, so as to encompass the fuller process of knowing, learning, and engagements in the field as “fielding”. It suggests a fusion of the field and fieldwork, and the inclusion of events prior and long after the rite of passage has been undergone. It factors in the ethnographer’s choice of research topics (and field sites). It recognizes and includes theoretical and methodological orientations in anthropology, sociology and philosophy as influenced by her social origins and

educational trajectory. It also brings in the historical and academic unconscious (or transcendental), which Bourdieu (2003) refers to as a set of cognitive structures that is to a large extent common to all the products of the same educational system or discipline at a given time. Despite differences in disciplines, they have a set of common dispositions that they can understand each other with a nod or a wink, knowing what issues to discuss, are important or interesting. It also includes the ethnographer's shifting "anthropological field" (Bourdieu, 2003, p. 283) that is, her professional universe, which is made up of her disposition, affiliations, gender, shared beliefs and values. Also, fielding recognizes the reality that one never really leaves the field in a world of interconnections (Appadurai, 1996), and that fieldwork is an ongoing process considering that an ethnographer's relationship with her experience is continually changing in the same way we continually change as individuals (Gardner, 1999).

All these features feed into the quality of fielding, which conjoins the researcher, the field and fieldwork in going through the rite of passage as a process of becoming. Fielding is integral to autoethnography, which involves the process of engaging and being engaged in – experiencing the learning and becoming at home in a different way of thinking – a threshold concept that the consequential autoethnographer moves through and is transformed by. It involves a different way of thinking about and doing research in which the researcher is acknowledged and located as central to knowing through research. The "consequential" aspect points to the state of being always on one's toes to pay attention to unforeseen and unintended events, "to respond and adapt flexibly to social circumstances as these arise, to be open to a wide variety of different types of relationships and interaction" (Amit, 2000, p. 10). Attending to the "consequential" includes the ever-changing conditions and contexts when journeying with people in highly politicized and volatile environments. Fielding then names and focuses on entering into new knowledge, a changed way of thinking and a different way of practicing and becoming at home there. It is also

meaning-making, seeking and composing a sense of the connection among things: a sense of pattern, order, form and significance (Parks, 2000). Fielding is part of being human as the ethnographer seeks not only to improve one's self but also others through knowledge of self, others and her environment. Fielding is committing to or speaking of commitments to find different realities beyond what is assumed and finding truths to claim. It entails cognitive, affective and performative learning, which requires and occasions a change in one's subjectivity, awareness of self and shifts in identity, which can entail unsafe and troublesome journeys.

Meyer and Land (2003) explain that crossing the learning threshold is transformative. It occasions a significant shift in perspective that may lead to a transformation of personal identity, a reconstruction of subjectivity, thereby altering also the affective that is, a change in values, feelings and attitude. Willis (2004) further elaborates that there are least three kinds of transformation: organic, unitary and critical. The first involves growing to maturity as a scholar wherein the scholar finds and begins to develop her voice. Unitary transformation is linked to the discovering and deepening of the voice and imaginal processes, which in turn are connected to a person's chosen set of values and related generative images. These are implicitly expressed in "self stories" or "personal myths" through which a person defines and enriches her authentic inner self. This is a process that is rife with struggles concerning choices that are ideal and rejecting as much as possible those alternatives that are less than acceptable to her values ideals and options. Thus, this transformative process requires "the embracing of one's own and other subjectivities, including the associated struggles and epiphanies" (Hunt, 2009, p. 7). Critical transformation is often a consequence of the first two and involves a radical change to people's ways of looking at, and relating to the world. Referred to as perspective transformation (Mezirow, 1978), people embark on a dialectical process to resolve the contradictions they

encountered when confronted with disorienting dilemmas that were generated through the contradictions between different ways they experienced their roles and relationships in a different setting. Hence, the knowledge and perspective acquired are probably irreversible and unlikely forgotten (Meyer & Land, 2003).

The learning threshold is also integrative since it exposes the hidden interrelatedness of a phenomenon (Meyer & Land, 2003). This insight is particularly useful in consequential autoethnography since it recognizes that the consequential autoethnographer makes connections that were hitherto hidden from view. A threshold concept in learning is possibly bounded in that “any conceptual space will have terminal frontiers, bordering with thresholds into new conceptual areas” (Meyer and Land, 2003, p. 6). Lastly, it is potentially and most likely troublesome because the knowledge acquired would be “counter-intuitive and alien (emanating from another culture or discourse), or incoherent (discrete aspects are unproblematic but there is no organizing principle)” (Meyer and Land, 2003, p. 7).

The consequential autoethnographer in fielding has a liminal persona or transitional-being that is structurally indefinable - she is at once no longer classified and not yet classified (Turner, 2004). In following the unintended consequences, the consequential autoethnographer experiences and exhibits ambiguity and paradox. Her presence is “particularly polluting” since she is “neither one thing nor another; or may be both; or neither here nor there: or may even be nowhere (in terms of any recognized cultural topography)” (Turner, 1987, p. 7). With a liminal persona, the consequential autoethnographer’s fielding is an experience of mutual gazing with the other through encounters that are both sacred and mundane at the same time. This may occur during in-depth interviews, taking down notes of observations or sitting on a timber felled by illegal loggers in a primary forest. Fielding is actively listening with her heart during short or long pauses in conversations; when there is an exchange not only of knowledge but also desires

and aspirations of what the world should be, or how lives should be lived with only a faint flicker of light illuminating a small dwelling place. Thus, fielding defies compartmentalization of experiences because everything is melded together, hence is open-ended.

Fielding is an exercise in humility and forbearance. While a fieldworker may initially have set out to fulfill her own research objectives, she chooses to set them aside to prioritize a subordinated group's research objectives that contribute to their efforts of liberating themselves from oppressive structures and policies. Fielding is also veering away and taking detours from the course that was mapped out, out of necessity, gut feeling or scientific training. Thus, fielding is undergirded by spirituality as I recognize that the pain of the Other is also my mine as I saw the fields of Mindanao is shared by Muslims, Indigenous Peoples and Christian settlers.

Then, it is only right that fielding is constantly questioning and thinking about “worthwhile purposes” in research (Reason, 2003) and conducting fieldwork. As part of her fielding, the consequential autoethnographer not only asks “useful for what?”, but also “better by what or whose criterion?” She must contribute to a future that will not only astonish and exhilarate (Rorty, 1999), but also contribute to the liberation movement of the oppressed (Freire, 1970). This means that the consequential autoethnographer never assumes that in conducting critical action research that what she thinks is good, is therefore good (Reason, 2003). She must seek to go beyond the moral choice as “always a matter of compromise between competing goods rather than a choice between absolutely right and wrong” (Rorty, 1999: xxvii-xxix). In her fielding, the consequential autoethnographer is reminded that there are two paths to knowing: the one of fact and reason, and the other of the heart. This way “we may see the world in all its dimensions, healed and whole. Without each of these dimensions the other by itself, is a diminishment of reality” (Palmer, 1983). Hence, fielding involves a certain spirituality/spiritual practices that are

concrete and responsive to improving the human condition. It is dialoguing, engaging and making one's self available and vulnerable to others, and the elements that cause sickness.

Fielding is also suffering and being prepared to be bruised, burnt, and displaced.

That said, fielding is essential to autoethnography, as autoethnography is integral to fielding.

CHAPTER 3

THEORETICAL FRAMEWORKS IN RECURSION

It was through a series of conversations that I started to think of impact in terms of unintended consequences. First were my exchanges with an Indigenous Subanon woman named Sepia (short for Zerafia) in Canatuan. Sepia, who used to oppose mining and now supports TVI's operations (Fieldnotes April, 2004), shared that she worries about the future. She knows and foresees the impact of mining on their land and on their children, she said. "But what can I do?" she asked as she shrugged her shoulders. "It is better to focus on how to earn a living by tending on my farmland." Nang Sepia said.

When I asked Gerry Gilos, leader of the Save Siocon Watershed Paradise Movement (SSWPM), about what made him take action against TVI's mining operations, I began thinking of consequences in terms of perceived threats and risks. He narrated how in mid-afternoon of 15 March 2004, strange rumblings were heard from the road in the sleepy farming communities of Barangays Malipot, Siay and Pisawak. Until that day, it was only the rushing *habal-habal* (motorcycles) that transport people and goods from the hinterlands back to Siocon would usually disturb the valley, which is nestled close to the mountain ranges separating the municipalities of Baliguian and Siocon in Zamboanga del Norte. He was about to drink his coffee at that time when he and his wife Elsie heard the rumbling noise. He stared back at Elsie, he said, who stood still with a puzzled look on her face as they felt the tremors under their feet as the rumblings came nearer. Quickly, Gerry placed his cup on the table and carefully put on his left prosthetic leg and hurried to the door of their small hut. Upon thrusting it wide open, clouds of dust dug deep by a

convoy of bulldozers, dump trucks and ten-wheelers ferrying enormous equipment, such as jackhammers, crusher and backhoes greeted them making them cough.

In the neighboring barangay of Siay, Punong Barangay (village official) Patrosinio Bantilin, was awakened by the sound of heavy trucks and metals rumbling through the rough road that strangely never seem to stop. Curious, he got up and threw open the door. A giant russet-colored globe, which he later learned that it was called a ball mill that it is used to grind ore, overwhelmed him.

“It was our first time to see such big equipment. We were very ignorant,” Gerry recalled that the “*martsa sa mga higitang ekwipo*” (march of the giant machines) lasted till almost midnight. They counted at least 21 heavy equipment were ferried in three batches from the barge that docked in Siocon’s Sta. Maria port. “It was only then that it dawned on me that Mt. Canatuan will be destroyed, and how it may affect us,” Gerry disclosed his apprehension as to how it will impact their *basakan* (rice paddies). “Nabalaka ko kung unsa na lang mahitabo sa amo kung adunay dako nga mina mag-operate (I became alarmed and worried about what might happen when there is going to be a large-scale mining in Canatuan),” he said.

The next day he brought up TVI’s forthcoming mining operations to SFA’s leaders and members, whose farms lands span across 19 of the municipality’s 26 barangays. But most of his members, who have not witnessed the march of the machines, seemed unperturbed until they saw the parked equipment in Barangay Pisawak. They were also galvanized into action when an officer of Siocon Municipality’s Interior Local Government officer called a multi-sectoral meeting composed of fisher folk, fish-farmers and farmers to discuss TVI’s forthcoming operations.

I became more intrigued about the unintended consequences of mining when I was conversing with the Bolyan’s (shaman’s) wife. Soledad informed me that “nagdiwata, nagritual

me tung Sabado (we held a ritual last Saturday) (Field notes, 17 April 2004). She explained that this is not what the anti-mining Subanos refer to as *topoh* (curse) because TVI or its contractors such as ALNOR had experienced a series of mishaps. But conducting a ritual was the pro-mining/pro-TVI Subanos response upon observing a series of mishaps had occurred in a span of four months starting when the picketing began in Sitio Pisawak.

These mishaps include the burning of TVI's old administration building at 1:00 am, killing a newly hired employee. Another TVI employee who was assigned to bulldozing Mt. Canatuan had a heart attack. An ALNOR company driver, who was navigating a dump truck unit towards Sta. Maria, lost control of the brakes and his truck rammed into a wall. He alighted from the truck, but he was not fast enough. The dump truck caught up with him. From his waist down to his legs, he was crushed (Field notes, 17 April 2004).

“Naghalad mi og kabaw ug baboy kay Subano gihapon ang nagatrabaho didto sa planta” (We offered a cow and a pig because there are Subanos, who are working in the plant) (Field notes, 17 April 2004). Susana related that they called on several Subanon *diwatas* (deities) when they conducted the ritual and prayed. Their names were printed on a white flag near the Subanon's place of worship, she said.

What struck me most about my conversation with Susana was how she implicitly made the connection that those accidents were as a consequence of mining in Canatuan. She perceived that the spirits were angered and displeased, thus, they conducted a ritual and made some offerings to appease them. My conversations with Sepia and Gerry, on the other hand, gave me insights on how, over time they decided to take actions which, in a way, deviated from where they started. The variation may have been due to changing personal, social or environmental contexts and perspectives. In the case of Sepia, her response to mining in Canatuan started by

opposing both small-scale and large-scale mining, and later on acceding to it. When I first met Sepia in 2004, she used to live in a hut, which had grass thatched roofing. By 2006, her house was expanded with tin roofing and several bedrooms, which she rents out to TVI's casual workers or those still seeking for jobs or livelihood in Canatuan. Her daughter also works for the company as a forester. But, her son noted that most jobs that are available for Subanos in Canatuan are of casual work. With Gerry, it was from a "not-my business" mindset to leading a militant action upon seeing the huge mining equipment passing through his house. In 2006, Gerry continued to till his farm and work as a pastoral leader of the Catholic Church. He also remained with his anti-mining stance. I learned that some people in Siocon perceive him as a rebel, because of position and for leading the Pisawak barricade in 2004.

In considering the consequences of mineral liberalization in Sitio Canatuan, I made use of two theoretical approaches to frame my analysis. First I drew on extensive sociological work on unintentionality and expected consequences. Second, I drew on political ecology, which treats resource extraction and mineral liberalization as political. Mining in the context of legislation has political sources, conditions and ramifications with significant consequences on the existing socio-economic and political inequalities and processes. Specifically, I made use of politicized environment (Bryant and Bailey, 1997) and micro-politics (Massey, 2005; Woods, 2007; Horowitz, 2010) as ways to inquire into the "politics of the negotiations of relations, configurations" (Massey, 2005, p. 147) at the local level.

3.1 Approach I: Unintentionality and Unanticipated Consequences

Contemporary thinking about the unanticipated and unpredicted consequences can be traced to Robert Merton's (1936) publication of the "Unanticipated Consequences of Purposive Social Action". Consideration of the unintended, however, has been a public concern since the

Enlightenment period (Sztompka, 2015). Adam Smith's concept of the "invisible hand" refers to market activities, made by decisions and actions of market agents, have aggregated outcomes that they have not been intended or recognized as their doing. Similarly, Hegel's (1956) "cunning of reason" also refers to the collective but latent effect of choices made by historical actors to gratify their own interests, although these were not included in their designs or intentions.

With Merton's (1936) seminal work on the unanticipated consequences, sociological analysis was going beyond understanding consequences as "common sense". Consequences are the "product(s) of the interplay of the action and objective situation, the conditions of action" (Merton, 1936, p. 895). Purposive action, as Merton views it, is distinct from behavior. It is conduct that involves motives and choices among various alternatives. Thus, despite careful prediction and planning, unintended consequences may occur due to six limitations: 1) ignorance, 2) error, 3) imperious immediacy of interests that precludes the consideration of future outcomes, 4) the immediacy of basic values, 5) self-fulfilling prophecy wherein a prediction, which is initially wrong, may be realized due to collective action (Merton, 1984 in Sztompka, 1996), and 6) self-destroying prediction which generates preventive actions that disallow the predicted outcome from happening (Merton, Fiske, and Curtis, 1946). From these limitations, Merton (1936) identified three types of unintended consequences of action: 1) consequences that are functional for a designated system, and also comprised of latent functions; 2) consequences that are dysfunctional for a designated system and are comprised of latent dysfunctions; and 3) consequences that are relevant to the system (Merton, 1968a).

As there are different types of human action (Webber, 1964, p. 115), there are also "different degrees of action" (Campbell, 2015, p. 54) that actors undertake in response to other actors' purposive action (Campbell, 2015). Actors take actions not only because they choose to,

but also because they intend to and as exercising their will-power. Hence, following Campbell (1996, 1999, 2015) in situating unintended consequences as intrinsic to actors and action, my theoretical framework allows me to be sensitive to the subordinated actors' emotions, imagination and intentions. While subordinated actors may find themselves in situations that forcibly deprive them of power, the subordinated actors remain purposive to assert their will-power as individuals or part of a small group agency. Hence, I also view unanticipated consequences as outcomes of collective action or collective phenomena (Mica et al., 2015), not only as isolated social actions of individuals, but that as collective can go in many directions like ripples. As ripples that may swell into waves, the consequences may result in certain unintended structures and further outcomes that will no longer be recognized or perceived by the individual or even by the collective. Elias (1991) explains this phenomenon as "unintentional human dependence," which occurs due to intentional interactions among individuals and collectives as they constantly seek new social positions. In the process, mutual interdependence increases to the point that it encompasses societies, but individuals and collectives are unable to perceive or control it.

Since Merton's initial formulation, several sociologists have stood on his shoulders, further developing as well as critiquing, moving away from his structural-functionalist approach and assumptions on "unintentionality" (e.g. Mennell, 1977; Giddens, 1984; Tilly, 1996; Campbell, 1996, 1999, 2015; Portes, 2000, 2010; Gross, 2003). Others have developed their own typologies (e.g. Baert, 1991; Portes, 2000; Sztompka, 2015). In examining the unintended consequences of mineral liberalization, I am following Sztompka's (2015) typology wherein he combined motivational (i.e. intent) and intellectual components (i.e. recognition, anticipation, expectation and prediction). These consequences can be organized into a four-type typology (Sztompka, 2015). 1) Actions with consequences that are both expected and intended. "This is a

fortunate situation when people employ their agency most effectively” (p. 78). Most actions are of this type. 2) Actions with anticipated but unintended results. These actions are viewed as a lesser evil in comparison to alternative possible actions. Also, the adverse consequences that result from such actions are taken as inevitable, “a price to be paid” for choosing to do so. 3) Actions that are intended, but not realistically expected. These actions were taken with a slight hope of a favourable outcome, but with realistic expectations of extreme improbability.

Sztompka (2015) likens it to the early stages of oppositional movement that people, who were living under dictatorial regimes, have started. They accepted the sacrifice of making the first step and that victory may not happen in their lifetime but are hopeful that it would come in the future. 4) Actions that have both unintended and unrecognized consequences. These are actions that take people by surprise, which are necessarily negative or undesirable. It depends on the value judgement of the individual or collective involved (Sztompka, 2015). Or, as Giddens (1984) points out, it also depends on the nature of the study being undertaken or theory being developed.

Other sociologists have also introduced new concepts of unintended consequences. Giddens (1984) introduced the concept of “perverse effects” to refer to contingent outcomes that arise from structural contradictions. For instance, a policy enacted to supplement low income elderly people did increase their income level. However, it inadvertently denied them medical coverage which made their condition worse. Elster (1983) also introduced “counterfinality”, which names a consequence that implies a contradiction between intended and achieved results.

	intended consequences	unintended consequences
expected/anticipated consequences	(1) actions with expected & intended consequences	(2) actions with expected & unintended consequences
unexpected/unanticipated consequences	(3) actions with unexpected & intended consequences	(4) actions with unexpected & unintended consequences

Figure 2-1. Schematic diagram based on Sztompka's (2015, p. 78-80) typology of unintended consequences

As I view the impact of mineral liberalization on communities through the lens of Sztompka's four types, I do not attempt to distinguish between structure and action in relation to unintended consequences since unintended consequences have stronger links to structural dimensions. I make use of Giddens' (1984) structuration theory, in which unanticipated consequences are viewed as fundamental to how society is constituted. Unanticipated consequences are produced through the dialectical relationship between social structure and individual agency by way of three mechanisms: 1) institutionalized practices, 2) interdependence of action, and 3) feedback loops. In the first mechanism, unintended consequences are a by-product of a set of structural conditions that simultaneously produce desired and unexpected outcomes. In the second, they are produced by purposive actions that are incongruent with actors' expectations. In the third mechanism, unintended consequences spring from individual actions that changed the condition of actions for other actors, who, in turn, acted on those changed condition. In each mechanism, the structure produces outcomes that may result in

additional unintended consequences. Thus, unintended consequences are produced by actors, structure, system, and are affected by reflexive processes.

The Philippines' mineral liberalization policy has political sources and ramifications. Its consequences can be understood, but not limited in two theoretical perspectives of society: industrial society and "risk society". Unintended consequences within an industrial society perspective are viewed as justified and counteracted by knowledge (Mica et.al., 2015). Within a risk society perspective, the term "loses its plausibility" (Mica et al., 2015, p. 19) because the notion of unintended consequences is challenged by the amalgamation of knowing and non-knowing, within which knowledge is construed as social attribution and construction (Beck, 2009). There is no single, undivided truth, but hundreds of relative truths such that uncertainty is not "overcome by more knowledge but is instead a result from more knowledge" (Beck, 2009, p. 5). Thus, knowledge and ignorance have become blurred such that the notion of unintended consequences is dismissed (Beck, 1999). Beck instead suggests that the notion of unintendedness is further distinguished into aspects or dimensions of unawareness vis-à-vis hazardous unintended consequences. These aspects are as follows: a) selective reception and transmission of the knowledge of risk; b) uncertainty of knowledge in concrete and theoretical terms; c) mistakes and errors; d) inability to know which may in turn be known or repressed; and e) unwillingness to know (Beck, 1999, p. 122). These aspects are characteristics of "reflexive modernization" (Beck, Giddens & Lash, 1994) in which the central meaning of the word "reflexive" does not mean that people are more conscious or aware nowadays than at earlier periods (Beck, Bonns & Lau, 2003). Rather, "reflexive" in relation to the unintended consequences of actions is the "heightened awareness that mastery is impossible and that control over actions is now seen as a complete modernist fiction" (Latour, 2003, p. 36). Unintended

consequences pervade throughout the whole of society that they have become intractable.

Reflexive modernity, which is the modernization phase since the Second World War and when “the advancement and the dissolution of industrial society coincide” (Beck, 1996, p. 104), is driven by greater unpredictability, decreasing control, and increasing unintended side effects (Beck, 1996; Giddens 1990). In short, modernity is becoming more problematic because the “transition to a reflexive second modernity not only changes social structures but revolutionizes the very coordinates, categories and conceptions of change itself” (Beck, Bonss & Lau, 2003, p. 2). Such modern society’s meta-change is an outcome of a critical mass of unintended side-effects of market expansion, legal universalism, globalization and technical revolution.

First modernity is premised on modern societies as nation-state societies with territorial boundaries. It is also distinguished by a programmatic individualization and gainful employment, and that nature is limitless and neutral resource, with the premises of reflexive second modernity still being negotiated. What is certain is that globalization has undermined the economic foundations of first society, with concomitant changes in idea of society as nation-state, in the expansion of individualization and the erosion of ascriptive patterns of collective life, in a breakdown of full employment/gainful employment, and in acknowledgement of limited resources, making it more difficult to continue conceiving of nature as neutral and a limitless resource provider.

With such important qualifications and distinctions, the concept of “unintended consequences” thus remains an important concept in Beck’s (1992a) “risk society.” The dominant self-evident realities of industrial society and the side effects of successful modernization, which produce patterns of unintended consequences, have given rise to a “risk society”. This suggests that “unintended consequences” are produced mainly through collective processes that run autonomously, no longer associated with individual intention and action (Mica

et al., 2015). In the context of analyzing mineral liberalization policy and practices, “unintended consequences” can be seen as normal occurrences in high modernity or reflexive modernity, full of risks and ambiguity such that assigning blame, exacting political accountability from powerful organizations, and apportioning justice are difficult, if not impossible, to achieve.

But, it has also to be noted that reflexive modernity is “completely Eurocentric” (Beck, Bonss & Lau, 2003, p. 7). The Philippines, where the mineral liberalization policy is being implemented, have not reached the full qualifications of first modern society. Yet, at the same time, the dynamics of second modernity is being displayed and effected in a country that is living out its postcolonial realities.

3.2 Approach II: Politicized Environment

Employing an interdisciplinary approach, I chose political ecology to frame my analysis of the impact of the Philippine State’s mineral liberalization policy on communities. First applied in neo-Marxist terms by Eric Wolf in the 1970s (Biersack, 2006), political ecology emerged as a challenge to structuralist and functionalist assumptions that societies are closed, isolated homeostatic systems (Rappaport, 1984, 1968) that exist in equilibrium and are unchanging (Nietschmann, 1973). Political ecology contested explanations that the Third World environmental problems were outcomes of overpopulation (Bryant, 1998, 1992), poor resource management, or local resource users and managers’ ignorance. It was also a response to the “compelling questions of how communities were being integrated into, and transformed by, a global economy” (Peets and Watts, 1996, p. 5) and the increasing politicization of the environment (Cockburn and Ridgeway, 1979).

In the 1980s, Blaikie and Brookfield (1987) in their foundational text, *Land Degradation and Society*, positioned political ecology as an analytical tool that combines the “concerns of ecology and a broadly defined political economy,” which encompass “the constantly shifting dialectic

between society and land-based resources, and also within classes and groups within society itself” (p. 17). They call for a dialogue between the social and natural sciences in probing questions regarding environmental problems and the access and control over the environment and resources. Blaikie and Brookfield (1987) define environmental problems at the local level, as land degradation in their title states, as social problems with links to political and economic processes at a national and a global scale (cf. Schmink and Wood, 1987). The “first generation” (Biersack, 2006) political ecology’s political economy, rooted in traditional Marxist dependency theory and world system theory (i.e. Gunder Frank, Immanuel Wallerstein), recasts capitalism onto a global scale, locating exploitation in developing countries (Biersack, 2006). With a Marxist political economic analysis, political ecology provides a structural perspective that emphasizes the causal relationship between a society’s economic base (modes of production and class structure) and the state’s legal institutions and administrative agencies (Schmink and Wood, 1987). Thus, this integration differentiates actors who are powerful (those who control and own the means of production and accumulate capital), to whom the state is inclined to cater, and those who are marginalized—poorer groups that tend to be victimized by capitalism (Peet and Watts, 2004). Such conceptualization, however, was “attacked vociferously” (Peet and Watts, 2004, p. 6) by scholars (e.g. Vayda & Walters, 1999) who argued that political ecology privileged politics and gave scant attention to the environment and science (biophysical processes and events) by deciding causal significance a priori that promoted a populist political agenda. Bassett and Zimmerer (2004) also pointed out that biophysical processes and the environment are “simply a stage or arena in which struggles over resource access and control take place” (p. 3). Peet and Watts (2004) clarify that political ecology’s epistemological position is critical realism on which it grounds its theory-building and theory-reconstruction in explaining

the world. Also, far from having a populist political agenda and green romanticisms as Vayda and Walters (1999) argue, political ecology has discovered that the community expresses different types of social relations and forms. It also has opened categories of the environment and explored its multiform representations, without being limited to biophysical events of environmental change (Peet and Watts, 2004). As Walker (2005) noted, political ecology stands to make valuable contributions to understanding environmental problems that threaten both people and ecosystems by remaining “broad, inclusive and integrative” (p. 80).

In the mid-1980s, nation-states and governments of developing countries began adopting neoliberal development agendas that liberalized trade and increased direct foreign investments by easing regulatory policies, such as revising or legislating new mining acts (Bridge, 2004a). However, neoliberalism has two contradictory positions: trade-led, economic growth; and state and government regulations of the environmental impacts of economic growth due to the disastrous effects of neoliberalism on global and regional natural environments via the commodification of nature (Peet and Watts, 2004; Hartwick and Peet, 2003). To reconcile such contradictions, governments and states employed several strategies. First, the cultural production of ideological and conceptual devices is used to bridge the divide between growth and environment (sustainable development). Second institutional means are used to displace political power away from nation-states to global governance institutions such as the World Trade Organization and General Agreement on Tariff and Trade (McCarthy and Prudham, 2004; Peet and Watts, 2004; Hartwick and Peet, 2003).

With this backdrop, political economy was re-theorized within the circumference of political ecology, making rigorous and explicit causal connections between capitalism and specific environmental outcomes (Peets and Watts, 2004). It further nuanced human-nature relations as power relations themselves that result in people’s domination of nature. This perspective has shifted

the focus from a class conflict to the broader conflict between human activity and nature within and outside of capitalism. It has also shifted the focus to those “interstitial zones” created by capitalism and colonialism (Biersack, 1999). As a result, the scope of political ecology widened to include examining a “range of differences” that include gender, race, and ethnicity as well as the politics and culture of difference that these have generated (Gupta and Ferguson, 1997; Biersack, 1999, 2004). The scope ranges from households and community at the micro-level politics (Moore, 1993) to the state, interstate, civil society, and multilateral institutions at the macro level (Peets and Watts, 1996; 2004; Bryant and Bailey, 1997).

The 1990s also saw political ecology’s engagements with poststructuralism, taking into account the politics of meaning and the construction of knowledge in relation to the community, environment, and development (Peet and Watts, 2004, 1996; Escobar, 1996). It challenged the “strategic simplifications” (Horowitz, 2003) of structural-functionalists, policy-makers, and project planners in conceptualizing community. Communities and villages were no longer considered to be an integrated whole (Radcliffe-Brown, 1952), a homeostatic unit composed of an aggregate of organisms (Rappaport, 1984, p. 224) and harmonious units (Radcliffe-Brown, 1952), as “clearly bounded, internally homogenous and single-voiced entities” (VanHelden, 2001, p. 23). Instead, political ecology defined communities as a “locus of knowledge, a site of regulation and management, a source of identity, a repository of tradition, an embodiment of various institutions... an object of state control, and a theater of resistance and struggle” (Peets and Watts, 2004, pp. 21-22). Communities were also assumed to embody “the local,” which has territorial control over resources that are historically and culturally constructed. This study follows Cohen’s (1992) notion of community that it is composed of a group of people who have something in common with each other that distinguishes them from the members of other

putative groups. Hence, *community* implies a relational idea that is “the opposition of one community to others or to other social entities” (Cohen, 1992, p. 12). It embodies a boundary, which encapsulates the identity of the community that is exigent in social interaction and contingent to the community in question. A boundary may be marked in terms of national or administrative boundaries, statutory, physical (mountain range or a river), racial, linguistic, historical, and religious. It may be symbolic and may foremost in the minds of their beholders, implying different meanings for different people and utterly imperceptible to some others (Cohen, 1992). Through their unique histories, communities invent and reinvent claims pertaining to land and resources, which “realities” they take to be naturally and self-evidently so.

Communities can lose and even lack cohesion, and hence can be made more problematic due to globalization and neoliberalism’s growing impact (Putnam, 2000, 2001); Giddens, 1998; Bauman, 1994). They can hold various ideological positions (Chambers, 1983; Li, 1996) and several subgroups can have different and contradicting interests (Tiani, 2001) and, with the entry of development projects, these interests can be altered and recreated. Differences and conflicts in a community arise from many sources: genealogies, kinship, socio-economic (e.g. caste system) statuses, political rank (e.g. chieftain lineage), education, age, gender, religious beliefs, personality traits, and ethnicities, etc. Group differentiation and subdivisions within communities are formed through clusters of interaction (Gupta and Ferguson, 1992), and fragmented social, economic, and political processes that take place in specific spatial and temporal circumstances and context such as colonialization, capitalism, and globalization (or a specific development project as in this study) (Appadurai, 1996; Anthias, 1998, 2001). On the other hand, subgroups can form due to material interests, imagined (Anderson, 1983) or “based on embodied, sensual and emotionally charged affiliations” (Amit, 2002, p. 16). At some point, these subgroups may

form strategic alliances and later become opposing groups (Turner, 1972; Li, 1996, 2000) depending on the external threat they perceive (Evans-Pritchard, 1940; Dumont, 1980). Thus, the “community” must be “rendered politically” (Peets and Watts, 2004, p. 25) and understood historically and ethnographically because within are various social groups with multiple and contradictory alliances (Li, 2000). Such dynamics must be analyzed so that the micro-politics that condition environmental conflict in the developing world can be considered (Moore, 1993). Most importantly, the absence of social analysis of actual existing groups and their dynamics within host communities hinders the success of development projects themselves. Peets and Watts (2004) suggest that communities should be understood in terms of hegemonies. However, as they note, not all community members equally partake in or benefit from the construction and reproduction of communities, or with voicing the claims made pertaining community interests. Since communities are internally differentiated in complex political, social, and economic ways, “they” speak with multiple voices to the state, to NGOs, and to the company. In effect, the extent to which their many voices are heard or not heard would also depend on social and cultural location of both speakers and “hearers”.

Political ecology’s engagements with poststructuralism also included the characterization of the social and cultural identities that influence human-environment dynamics. These revealed and challenged the asymmetrical power-knowledge relationships embedded in discourses about modernization and development (Escobar, 1992, 1996). With poststructuralism, political ecology examined how knowledge is “being constructed, by whom, for whom, for what political purpose, and to what political effect” (Biersack, 2006, p.14). As a result, the conceptualization and construction of nature-society relationships are investigated in various ways, including discursive practices, thereby enlarging the political sphere in political ecology. Nature is recognized to have

multiform representations (Peet and Watts, 2004, p. 17) that are culturally constructed and socially produced while, at the same time, having biophysical basis and processes (Escobar, 1999). Thus, current political ecology employs phrases such as “second nature” (Biersack, 2006), “humanized nature” (Lansing et.al., 2006), “violent environments” (Peluso and Watts, 2001) and “politicized environment” (Bryant and Bailey, 1997). Biersack (2006) expands Marx and Engel’s concept of *second nature* by defining it as “nature that is humanly produced (through conceptualization as well as activity) and that therefore partakes, but without being entirely, of the human (p. 14). Lansing et al. (2006) interpret Marx’s conceptualization of *humanized nature* as nature that is a product of a collective human engagement with material objects over historical time. It involves both an objective (technology or engineered landscape that are inherited from predecessors) and a subjective meaning (i.e. signifying the process that nature came into being). Peluso and Watts’ (2001) *violent environments* is grounded on the idea that specific resource environments and environmental processes are constituted by, and in part constitute, the political economy of access to and control over resources. It begins through understanding the changing contexts of how nature is transformed by examining who performs the labor, who bears the burdens, and how its benefits are claimed, distributed, and contested. Central to Bryant and Bailey’s (1997) idea of *politicized environment* is the recognition that environmental problems are best understood within the political and economic contexts in which they were created. Each of these nature-society concepts recognizes that what is meant by *nature* is itself a by-product of discourse, human activity, and time. The field also recognizes that, within local societies, environmental knowledge is unevenly distributed. Such knowledge may not be accurate or useful because existing environmental knowledge can be inappropriate or wrong. Traditional knowledge is regarded as a complex hybrid that draws from other knowledge systems (Peets and Watts, 2004).

To examine mineral development's impact on communities, Bryant and Bailey's (1997) concept of a politicized environment is particularly useful. They acknowledge that any environmental change, development project, or agenda has "political sources, conditions and ramifications that impinge on existing socio-economic inequalities and political processes" (Bryant and Bailey, 1997, p. 28). These are inherently linked to colonialism, globalization, capitalism, and neoliberalism. In a politicized environment, environmental changes have three outcomes. First, the costs and benefits among actors are distributed unequally. Second, the unequal distribution of the costs and benefits of environmental change usually reinforce or reduce existing social and economic inequalities. Third, the resulting social and economic impact of environmental change also changes the power relations among actors.

For Bryant and Bailey (1997), a politicized environment involves aspects of dimension, scale, and power. A politicized environment's dimensions are every day, episodic, and systemic issues that manifest certain physical changes (soil erosion, flooding, or nuclear fallout). The rate of the impact of physical changes can be gradual and remain unrecognized for a long time, or are immediately identifiable. The everyday environmental changes may impact human society cumulatively and typically highly unequally, with the poor being the most adversely affected. The episodic dimensions of a politicized environment will generally affect everyone, though the poor are usually the most disadvantaged. Systemic physical change (e.g. nuclear fallout) has a general, widespread effect on everyone. The key to grasping the scale aspect of a politicized environment is to recognize that different actors simultaneously contribute to, are affected by, and seek to resolve environmental problems at the local, regional and/or global scale (Bryant and Bailey, 1997).

Bryant and Bailey's (1997) dimension and scale aspects of a politicized environment have many complexities beyond those discussed here. But, familiarity with these aspects as presented is

sufficient for a broad-stroke appreciation that dimensions, scale, and power are facets of the concept of “politicized environment.” Individually or in combination, they contribute to the unequal relations between actors and the unequal distribution of the costs and benefits of environmental change—a major concern and focus of this study. Such unequal distribution may not only reinforce or reduce social and economic inequalities, but also create new ones, especially because, when such environmental conditions occur in a developing country, it is a livelihood issue (Redclift, 1987). Environmental and developmental concerns are inseparable (Bryant and Bailey, 1997).

Drawing on the preceding discussion, I gave power more attention in this study. Power is manifested in a politicized environment in different ways. These include monopolizing resources for wealth accumulation, societal prioritizing of environmental projects and problems through financial allocation and the determination of intervention, and influencing or determining the location of a development project. Corollary to this altered and differentiated social and economic impact of environmental change are political implications that include changes in power and power relations held by various actors. These changes may enrich or impoverished actors. Actors’ ability to control or resist other actors, who are exerting control over their environment, is also affected. Power relations in the past and present are revealed through the environmental outcomes of powerful and subordinated actors’ interactions. Bryant and Bailey’s (1997) actor-oriented approach identifies five sets of actors: the state, multilateral institutions, businesses, non-government organizations, and grassroots actors. They have differing and complex interests, characteristics, and interactions with each other and the environment that can cause conflicts (Long, 1992). Actors may also exert control over other actors’ environments through discursive means (Bryant and Bailey, 1997), through which systems of knowledge and manners of doing things may be legitimized, justified, and naturalized, a condition that Gramsci (1995) refers to as *hegemony*. The power-discourse nexus in environmental

conflict is manifested indirectly, that is in terms of winning the battle of ideas regarding the common good and the “right” way of using, managing, and sustaining land and resources (Bryant and Bailey, 1997). Powerful actors, such as the state and business, control the public transcript by deploying and presenting concepts and practices as socially accepted through official documents, laws, and policies (e.g. mineral liberalization) (Scott, 1990). Using the public transcript and coercive power, powerful actors can establish a new political and ecological order that overrides local patterns and systems of human-environmental interaction.

However, counter hegemonic ideas are invisible and unregulated. For instance, weak actors counter domination by deploying “hidden transcripts” (Scott, 1990)—expressions and patterns of resistance against powerful actors. Grassroots actors have a complex way of relating to the environment due to their material and cultural interests. Land, for instance, has multidimensional meanings and value (Blaikie and Brookfield, 1987; Alejo, 2000). Grassroots actors find dignity, power, and meaning in land—as political territory, an economic resource, and a cultural and spiritual base (Alejo, 2000; Hirsch, 1990). When development projects threaten their access to land and resources, weak actors find ways to subvert powerful actors’ activities. These actions may include sabotaging the development project (e.g. arson in a timber plantation), and using local knowledge about their land and environment, and how these intersect with their culture and tradition, to challenge the legitimacy of powerful actors and their official transcript (Bryant & Bailey, 1997). Moore (1996) notes the “simultaneity of symbolic and material conflicts” that is made evident in the production of a landscape and resources. Appadurai (1996) also suggests that complexities in developmental and environmental conflict be approached as “deeply perspectival constructs, inflected by the historical, linguistic, and political situatedness of different sorts of actors” (p. 33).

In using Bryant and Bailey's (1997) actor-oriented approach, this study has foregrounded politics as the struggle over "who gets what, when and how" (Laswell, 1936). By focusing on the complex and multilayered interactions of the state, the company, the community, and the community's micro-politics, this study adds to the growing body of literature that informs understanding of environmental conflict and cooperation at the local level (Peluso, 1993; Rocheleau and Ross, 1995, Horowitz, 2010).

I have analyzed a case study that provides one of the better if not "the best critical engagements with neoliberalism, environmental change, and environmental politics" (McCarthy and Prudham, 2004, p. 279) due to its historico-geographic specificity. A case study allowed me to deeply investigate the complexity of communities, especially those that have groups choosing to resist globalizing processes or enter and negotiate their share in the world market exchanges based on their own perceived opportunities (Rasche and Kohne, 2016). As Bunker (1985) notes, "they themselves may reorganize local modes of production and extraction, and ... the opportunities to which they respond are frequently ephemeral," whereas the local consequences of such reorganization are "enduring" (p. 54). In the same way, globalization through capitalism (i.e. multinational corporations) articulates with the local, which continues to have non-capitalist forms of production (Watts, 2013), and negotiates to incorporate and coopt local cultures to maintain its global position (Hall 1997; Featherstone, 1993). These globalizing processes occur in areas in a nonvertical manner. Thus, I have considered and incorporated the critically important concept of *place* into this study's analytical framework.

Place is conceptualized here as "*not* the local, *not* globality's Other but, rather the grounded site of local-global articulation and interaction" (Biersack, 2006, p. 29). It is not static since place is also a process due to the social interactions that it ties together. Thereby, place has multiple identities

and full of internal differences and conflicts (Massey, 1991, p. 68). Place is also defined by conflicts, that is, conflict over what it used to be in the past, what should be its present development, or could be in the future. Place “facilitates the conceptualization of the relation between the center and periphery” (Massey, 1993, p. 68-69). Thus, places that host mining projects and communities are both locational and relational. They are not simply local or are hermetically-sealed sites of autonomy. They are relational spaces of connection and articulation (Moore, 2012), defined through the “particularity of linkage *to* that outside which is therefore itself part of what constitutes the place” (Massey, 1993, p. 67). The concept of place also widens the scope of understanding mining sites in Mindanao, which the Philippine State has historically regarded as a frontier. Although far from the nation’s geo-political center in Manila on the island of Luzon, the concept of place situates Mindanao as a natural-resources and raw-material provider to the broader project of Philippine statecraft that is historically controlled by oligarchs, the elite, and the globalizing process. Place also situates the foreign mining company as a globalizing agent that interacts with the local in several ways.

With a place-based approach included within political ecology, this study draws on the power of a finer lens for viewing development and the grassroots actors’ responses to globalization, which “renders ‘subalterns’ subjects of their own history” (Biersack, 2006, p. 24). There are various pressures and resistances (Scott, 1985; Starn, 1992) which may take the form of counter-hegemony, counter-movement and infrapolitics (Rasch & Kohne, 2016; Chin & Mittelman, 1999), cooperation and appropriation (Sahlins, 1992) from below vis-à-vis development projects. In addition, just as with place communities have varied and complex social relations and forms (e.g. nomadic band, confederation) (Miller, 2017). They are always in flux, never in a fixed state. They exist only if there is action and an ongoing process of socialities and histories (Studdert, 2005). Thus, only a “thorough socio-cultural investigation would illuminate divergent interests and identify areas of

possible tension over resource management among community members” (Foale, 2001, p. 48).

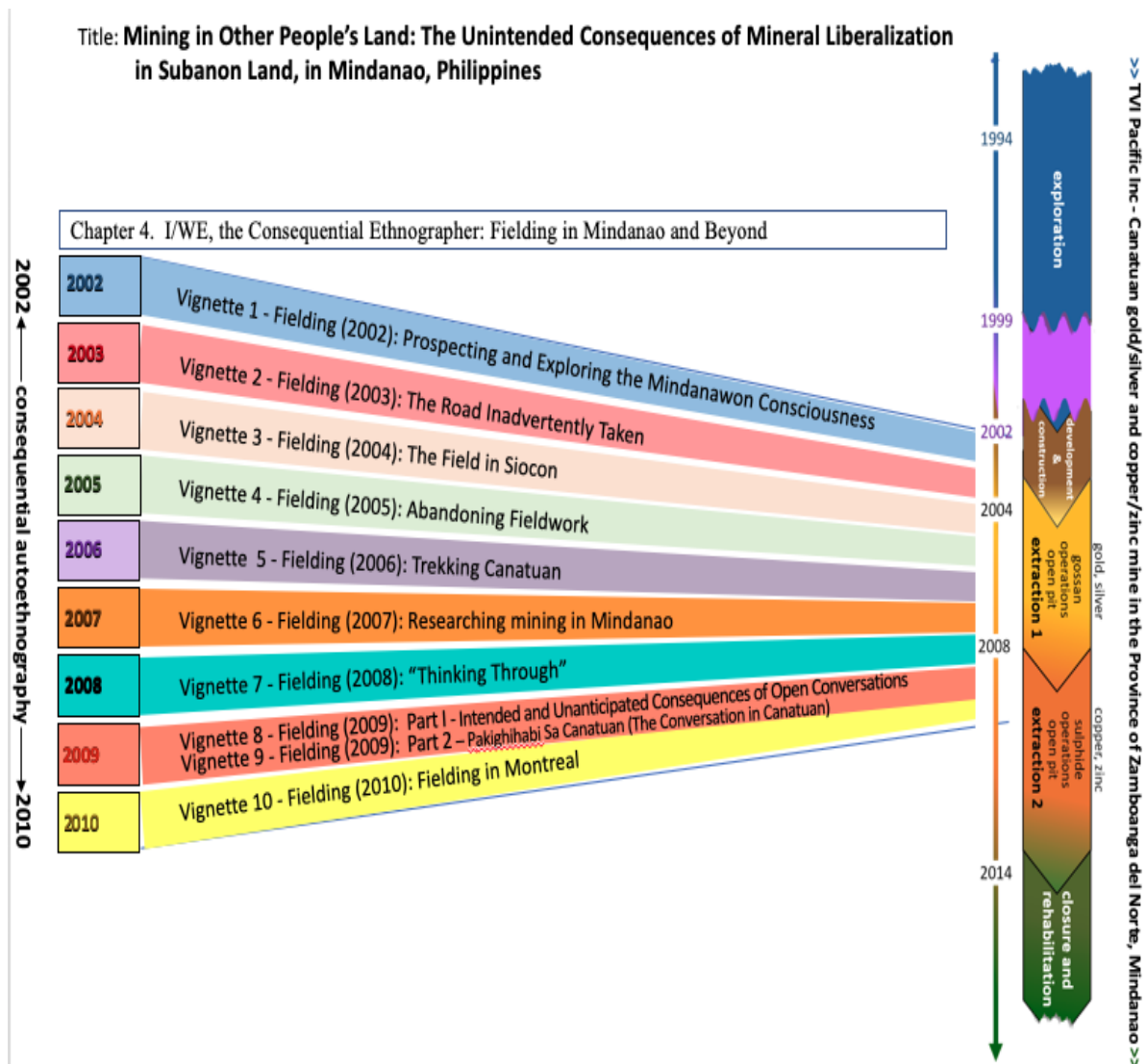
Such analysis would reveal the full picture of what needs to be considered in development initiatives, particularly extractive initiatives.

CHAPTER 4

I/WE, THE CONSEQUENTIAL AUTOETHNOGRAPHER, FIELDING IN MINDANAO AND BEYOND

This chapter presents 10 vignettes which give insights on my fielding in Mindanao and elsewhere . How I started out as a disinterested observer to becoming a committed and activist participant observer towards the end of my fieldwork is only part of a bigger story. Truly I was

Figure 4-1. Graphic overview of fielding from 2002-2010.



tempted to keep these stories hidden due to my initial misgivings regarding autoethnography. But to succumb to such reluctance is to renege on the promise of the “sociological imagination” which enables us to “grasp history and biography and the relations between the two within society” (Mills, 1959, p. 4). Is it not that “every individual lives, from one generation to the next, in some society; that (s)he lives out a biography, and that (s)he lives it out within some historical sequence” (Mills, 1959, p. 6)? The very fact that (s)he is living, as Mills (1959) points out, she already “contributes, however minutely, to the shaping of this society and to the course of its history” even though she, herself, is shaped by society and its history.

These vignettes are based mainly on my field notes, journals, news feature stories, letters, and emails which I sent to family members, friends and colleagues while fielding. They reflect what Schön (1995, 2017) describes as “knowing-in-action.” They provide a perspective, not from up on “high, hard ground overlooking a swamp” (Schön, 1995, p. 28) but from down in the “swampy lowlands” where “problems are messy and confusing and incapable of technical solution” (Schön, 1995, p. 28). These are records of my reflection-in-action (an essential feature of fielding) where I encounter surprises in the field compelling me to ask, “what is this?” and “what understandings and strategies of mine have led me to produce this?” (Schön, 1995, p. 30).

I have written these vignettes particularly and deliberately in the present tense. As much as I have been able, I have reflexively crafted these accounts to present and relive the moments as taking place now and to allow the reader vicariously to experience the moments as I did, even though they occurred some years in the past. These vignettes not only present the mechanics and dynamics that were at play at that time while I was participating in “the swamp,” but they also document my interior movements. They reflect the movement from “I to We” that was taking place as I was participating, transitioning from myself as observer to my social self embedded in relationships, engaged in collaboration and bonded in solidarity. They reflect personal change from participating as an outside observer to becoming an accompanying participant activist.

They reveal the gradual shift in activity from engaging in skilled documentation to becoming an observer to collaboration as a trusted insider. They show me moving from being a collector and recorder of stories to become their storyteller. They demonstrate the change from my observing from a personal outside vantage point to my knowing as an insider with multiple vantage points. The vignettes also document and follow my interior movement from initially choosing an event to observe to subsequently following actors and their responses to emerging consequences. The sequence of the vignettes traces the movement from emic to etic and back again; attending to agency and to structure in their mutual shaping and being shaped; connecting personal troubles of milieu to public issues of social structure (Mills, 1959).

Autoethnography is about the specific – this event and these persons, this place at this time, these words in conversation, this look with that silence – as experienced and as told by the researcher. Autoethnography reflects and presents the researcher’s orientation and skills as the instrument of gathering data through personal observation and documentation experienced in the past, told in story through writing in the present. Too easily such minute immediacy and focused attention to details of the particular in the past told in the present – the individual ‘tree in the forest’ as reflected in a story – can obscure, even block out the view of ‘the forest for the trees’ in which this tree is one of thousands of trees which collectively are the forest. This tight focus on an individual tree can make it difficult to see the forest which envelopes and surrounds it, even as the larger view of the forest gradually emerges across the stories told over time. Yet any whole which ignores or abstracts too much from the details in generalizing not only loses depth and complexity, subtlety and nuance, but it also runs the opposite danger of missing, as we say, “the devil in the details.” The paradox of this inescapable tension – the hermeneutical circle – between the particular and the general, the part and the whole, the text and the context, among different genres with emic and etic perspectives is what the autoethnographer lives with but which a reader can miss.

Such a dilemma is unavoidable. Yet warning about the danger inherent in the paradox and being alerted to some of the emerging and widening contexts of mining and Indigenous people in Mindanao across the 10 vignettes of this chapter is needed. It is important that a reader attend to the developing larger whole, the big story emerging through my telling a number of stories of fielding in following consequences. These stories are told in the sequences in which I experienced events as a researcher. While I draw heavily on my journals in which I recorded each day what I was experiencing in fielding, I am telling these stories here and now retrospectively, looking back at interactions, especially conversations, recalled and anchored in notes written contemporaneously, not simply remembered. “Life can only be understood backwards; but it must be lived forwards. Life is not a problem to be solved, but a reality to be experienced” (attributed to Kierkegaard).

Admittedly, although there were incidents in the course of my fieldwork that I have yet to make sense of, still I have tried to summon the courage to process and deal with them as much as I could to this point. I have tried to address them by using both evocative and analytical autoethnography. It is evident in the vignettes where I have also drawn on and incorporated other sources of primary and secondary data such as official government case file documents and reports, financial statements and management discussion, minutes of the meeting and/or proceedings. I have used these sources recursively with my methodology and theoretical frameworks in doing my analysis and in writing the text of my dissertation.

In writing these vignettes I have been compelled to reflect about writing itself and how and why it has become an essential part of my life. It began when I was in grade four when my homeroom and English teacher required us to start a diary. “Write about anything that comes into your mind,” I remember her saying. Looking back, it was her way of quieting us down after our lunch break and also to assess what we have learned in our English subject in terms of grammar and spelling as well as improving our handwriting.

So, I wrote and just wrote whatever would come to mind. I did not realize how powerful that approach was until my teacher summoned my parents to see her. You see, after the first grading exams, my grades had plummeted so much that by the third grading exams I had all red marks in my report card. My diary revealed to my teacher my sensitivity to some events concerning my extended family that warranted parental intervention. When I saw its impact and how revealing it was about my feelings, I stopped writing. But I took it up again that summer because as I was going to grade five, I learned about Anne Frank, a girl a little bit older than I was at the time who kept a diary while hiding in an attic during the second world war. I knew that she died in a German concentration camp because she was a Jew. I remember asking my aunt, “why were the Jews being killed, would my being a Filipino be also a problem?” Because Anne Frank kept a diary, I and the whole world came to know who she was, her thoughts and temperament. Like her, I poured out my pet peeves, angsts and imaginings in my diary which I address initially as simply “Dear Diary,” and later it became “Dear Jesus Christ,” then Dear St. Therese (of Lisieux) when I would become anxious, especially when school was cancelled because of bomb threats, crossfires, and “welga ng bayan” (people’s strike). Keeping a diary had become an established habit.

When I began fielding, writing in my journal became a repository for recording what I was seeing, hearing, observing. I did not humanize it the way Anne Frank did with “Dear Kitty” or as I had done with “Dear Jesus Christ”. I simply treated writing in my journal as my way of making sense of what was going on around me on the go. My notebooks and ball pens were as essential as my water bottle, which went with me wherever I went. Everything was fielding to me. Many a times I would interrupt my conversations with the Subanos and other actors I was encounter in the field by raising my hand saying, “kadali lang (wait)” so they would pause and hold off what they were about to say, then I’d take out my notebook and ask their consent if I

could write down verbatim what they were saying. Usually they would say yes since they knew who I am and why I was there. There were times also that they would also say, “dili lang (no)”. Or the Gulang Gukom or the Timouy would say, “ato-ato lang ni (this is between us)”, and therefore it is off the record. As soon as I could, I would try to reproduce from memory our conversations and exchanges in Bisaya.

Writing in my journal was also for processing my thoughts and emotions in the midst of chaos and uncertainties. It became my refuge, which was so paradoxical because I was engaged with different and many people when fielding, yet at the same time it was also a very interior and spiritual journey that I was always certain such that not even my older sister and mother, who know me best, would be able to perceive the transformations that were taking place in my constant state of liminality - the “betwixt and between”, neither here nor there of what was I experiencing in “fielding.” Having real conversations about what I was seeing, feeling, sensing, and thinking at a certain moment were almost always fleeting and immediately would easily get lost once I became engaged with others, or when I had already moved to another place or context. Thus, I wrote to process and document, think and remember. Reflecting and analyzing sometimes – no, often times – was a luxury because of little time and the dearth of books and literatures that I had access to. So, I was writing in my journal hoping that someday I would be able to engage with these fragments of ruminations and ideas and piece them together.

Typically I write in the vernacular, which is in Bisaya, Tagalog or “Binisaya na Tagalog” (Lizada, 2005). I was born and raised in Davao City in Southern Philippines, which is a regional center and a melting pot where the Bisayan language is spoken by the majority, alongside English and Tagalog in the everyday discourse. As a result, we have developed the practice of code-switching and doing lexical borrowings from Tagalog, Bisaya, and English.

Rubrico (2011) identifies that Davao has two Filipino varieties namely, the English-Filipino mix and the Binisaya-Filipino blend known as TAGBIS (Tagalog-Bisaya). The Filipino variety in Davao, however, is neither Bisaya nor Tagalog, but “it is a language that is naturally evolving” (Rubrico, 2011, p. 7).

When I went on fieldwork and needed to write my reflections and analysis right then and there, I decided to write in English because I always had kids and adults looking over my shoulders in their curiosity about what I was writing in my notebooks. As I went further into my fieldwork, I realized that I was writing recursively in English and the Filipino variety in Davao (FVD). I would first write in English and then would capture the conversations and dialogues in Bisaya, and then shift to FVD or English letting my thought processes take the lead. This shows up in my vignettes where I quote the entries in my journal almost verbatim.

This recursion between English and FVD proved handy to me as I switch between English, Bisaya, Tagalog or FVD. But always I wrote first in English and later, endeavouring to capture diligently the dialogues I had been engaged in and the conversations I heard, in Bisaya when I was by myself. With this strategy, anybody observing and peering over my shoulders were not able to fully understand and know my thoughts. The young kids loved to look and show off their reading skills to me by trying to read the words in English. When this happened, I would lose my concentration and some threads of thoughts, particular details that I wanted to describe. But whatever I had written, I would later go back to these snippets of paragraphs or sentences to start again from where I left off, and not knowing if I would be able to pick up my train of thought and reflection again and finish my thoughts, or simply go with the flow without regard for where it was going to take me. But writing has been a way that I always have gone back to as a recursive way in making connections, even some years later.

4.1 Vignette 1 - Fielding (2002): Prospecting and Exploring the Mindanawon Consciousness

Until I became the head of secretariat of the Ugnayang Pang-Agham Tao (UGAT)/Anthropological Association of the Philippines' 24th national conference in the Island Garden City of Samal, Davao del Norte in March 2002, I had no clear idea what anthropology was all about. One afternoon sometime in January of that year, Fr. Albert Alejo, SJ came knocking on Mindanews' doors and it was I who checked out who it was.

“You,” I said, “You were the one why I got into trouble!”

Fr. Alejo was stunned as he entered the doorway uncertain on how to respond to such greeting. He did not recognize me until I told him who I was.

Paring Bert, as he now prefers to be called, was my high school teacher in religious studies. Alongside our social studies teacher, he guided and mentored us on our fourth year in a year-long immersion program where we had to serve in a public hospital, a mental sanitarium, non-government organizations, and prisons, relating it to our Catholic faith to actualize the Jesuits' motto to be “men and women for others”. Those community service and reflection papers that we had to write had seeped further than Paring Bert had probably anticipated. My conscientization, however, had begun much earlier.

I was born and raised in Davao City. I grew up at a time when my city was known as the Philippines' “killing fields” that alludes to the movie *The Killing Fields*, which was about the Khmer Rouge regime in Cambodia. It was also called “Nicaragdao,” a moniker of Davao City's Barangay Agdao which used to be controlled by the communist New Peoples' Army, and having a similar experience with Nicaragua (Bueza, 2016). In the 1980s, Agdao was

known to be a communist bailiwick where gunfights and killings occurred between “sparrows” (a moniker for special partisan unit which were urban guerrillas of the Communist Party of the Philippines/New Peoples Army) and the government’s military and/or its *Alsa Masa* (vigilantes formed by the military). Hardly a day would go by without news broadcasting that a body was found at this street or highway. Determining who was killed by whom was decided by the number of bullets the body sustained. One bullet in a body would indicate that the person was “salvaged” by the rebels while a person with multiple bullets meant by the military. “Salvaged” is a local parlance meaning summary killings since most dead bodies were found along Davao City’s Salvation Highway.

From childhood, I became aware of structural violence and oppression, human rights abuses, socio-economic disparities particularly in Mindanao, the power of social movement and taking the powerful into account but with great costs. Davao City was the country’s mother of the “*welga ng bayan*” (“peoples strike”). When labor and transportation sectoral groups would call for a strike to protest an oil price increase or demand a wage and salary increase, the whole city would be paralyzed. Barricades would be set up in key strategic areas in the city and often strafing and water cannons would be blasted against protesters. There were also armed confrontations between the military and “sparrows” in areas known to be guerilla strongholds in the city. In Davao City, model communist villages such as Punta Dumalag, a fishing community which is only about four kilometers away from my village, exist. These communes were where “under the (communist) party’s protection and guidance, the dispossessed had taken possession” (Chapman, 1988, p. 144). They were able to govern and police themselves, organized a communal economic structure, provided their own water supplies and electricity, administered its own justice system, killed or expelled those who stood in the way. They were politicized and

ready for a long fight (Chapman, 1988). They provided the force in those “welga ng bayan”, which could go on for days with my father, a businessman, complaining that his small business was hurting. Instead of art murals in the streets, walls were painted with red graffiti that screamed “Imperialismo ibagsak” (Down with imperialism), “US-Marcos dictatorship ibagsak” (Down with US-Marcos dictatorship), “Aquino tuta ng kano” (Aquino, a United States puppet). “US-Ramos ibagsak” (Down with US-Ramos government)

I went to Ateneo de Davao University, a Jesuit school, since I was in kindergarten. Most middle or upper-class families would send their children there for education. In Ateneo I came to know that, aside from fire and earthquake drills, bomb threats too were a fact of life, interrupting or canceling classes, with glee on our part. Sometimes bomb experts in civilian clothes would quietly enter our classrooms during class, peering inside closets and cabinets. I only took those bomb threats more seriously when my mother, aunt, older sister and a cousin were hit by shrapnel when a grenade exploded just as the mass was about to start inside our San Pedro Cathedral on an Easter Sunday. “They” said that it was the handiwork of Muslims. We thought otherwise.

Davao City changed after the bombing of the San Pedro Cathedral. All churches became gated and masses were only celebrated before 6 pm. After 6 pm, no one was seen loitering for fear of being mistaken as rebels. Military jeeps set on fire in the neighborhood was also normalized in the same way that tanks and soldiers in full metal gear roaming the city. Helicopters in the sky also meant that a military operation was taking place in the countryside. Hundreds of evacuees, both Indigenous and non-Indigenous, would find their way in the city to escape being caught in the crossfire between the military and rebel forces.

At my grandfather’s place in downtown Davao, I also witnessed thousands marching in the streets waving red flags or wearing yellow shirts. They would also acknowledge my lolo

(grandfather) with a unified shout of “Mabuhay ang Nasudnong Burgisya (Long live the national bourgeoisie)!” We kids emulated this protest action particularly when our playground was occupied by delivery trucks. Together, we all shouted “We are on strike” while banging on tin cans as we circled around those trucks. No one thought of actually going to talk to the manager to tell him how we were affected when he was my grandfather’s friend. Also, our fervor waned when classes resumed.

In Ateneo, I learned of multi-national and transnational corporations and how our resources were being extracted at a cheap price, and after manufacturing elsewhere the finished goods were sent back to the Philippines and sold at a steep price. However, it was only in grade five that I only came to be aware of class differences. One day I asked my playmates, whose fathers collect bottles, metal scraps and what not to sell to my grandfather who owned a vinegar factory, if they had classes the following day. I was so excited to share the news that we did not have classes the next two days, and that unlike them I can play.

My playmates replied, “No, we don’t have classes.”

“Oh, you’re also having a short break?” I asked.

“No, we don’t go to school,” they replied. As they kept playing “hantak” (a head-or-tails gambling game by tossing three coins on a slab), I asked “Why not?”

“We don’t have money to go to school,” they replied.

It was only then that I became aware of the contrast that I was in my Ateneo school uniform of blue skirt, crisp white shirt and a blue tie with a letter A, wearing a pair of polished black leather shoes while that they were dressed in tattered shirts and shorts, and tattered rubber slippers. They were my friends with whom I played tagged and washed cars parked on the streets during summer. Until that day, I did not realise that education was not for everyone. Till then I

had not noticed that they smell of grime, sweat, and dirt in plying the streets and highways of Davao with their parents and siblings scavenging for whatever materials that they can sell to merchants like my grandfather. Shortly after, Ateneo sent our class to go on exposure in Agdao where we walked on rickety wooden bridges that connected houses on stilts. Four of my classmates fell into the canal because the slabs of wood were too fragile to carry their weight.

Through those community exposures and immersion programs in elementary and high school, I came to see how education was connected with social justice and our Catholic faith. Through my Jesuit education I came to know about the “preferential option for the poor.” The context that I lived in – the killings and violence – further enforced my conscientization. Although it was with difficulty that my parents and elders would try to explain why we are praying over a priest or lay persons, who served in the church, had been killed or were missing, I somehow understood what a prophetic church stands for. Teaching a person how to fish is not enough, we must also make sure that there are fishes in the ocean.

I also came to know that in working for a just and humane environment, there are two options one can take to address oppression, social injustices and economic exploitation: active non-violence or armed struggle. Having been exposed at a young age to the effects of a repressive government and the armed resistance as a response to a dictatorship, the active non-violence track towards peace and justice was first presented to me while I was practicing with my volleyball varsity team in Ateneo’s covered court. Military men in civilian clothes approached us and told us to stop playing. Baffled with what was going on, we foot-dragged in putting away the net and balls. Soon after, truckloads of armed men in shabby and unmatched fatigue uniform came. For the first time, I saw Nur Misuari, leader of the Moro National Liberation Front (MNLF), and his rebel soldiers. While it was intimidating to be in the midst of a

battalion of a Muslim secessionist armed group, I also saw the weariness on their faces. The MNLF, which was formed following the Jabitah massacre, had waged a war against the Philippine government since 1972. It was a response to the minoritization and displacement of Muslim tribes in Mindanao due to the Philippine State's migration policy before and after World War II. In the same manner that we were displaced from Ateneo's volleyball court to give way to a gathering of political detainees and other members of the Communist Party of the Philippines, I came to understand the toll of such commitment. It made me question if armed struggle is the only option to take as I soaked in progressive discourses that were influenced by Freire (1970) and liberation theology, the alternative media, and organized masses that would stage protest or subversive actions for days. But I sensed a breath of fresh air because there was a ceasefire due to the peace talks. My city had provided a safe space for these armed groups. There was also an understanding between the city government of Davao and the rebel groups that they all are welcome as long as they turn over their guns before entering our city in the 1990s. There was relative peace, but it was not quite based on justice.

When Paring Bert came by to visit that day in 2002, Mindanews was only about six months old. *Mindanews: This is our Mindanao* (Minnanews from hereon) is the news service arm of the Mindanao News and Information Cooperative Center (MNICC) (now Mindanao News Institute). It is a cooperative owned by media practitioners all over Mindanao. We established it in May 2001 as our response to the Philippine State's declaration of the total out war against the Moro Islamic Liberation Front (MILF), which affected thousands of families. Before that, most of us were reporters or stringers of a leading national daily in the Philippines. When war broke out in Mindanao, a line was drawn more boldly between the Manila editorial newsroom and its Mindanao bureau when stories filed by its Mindanao reporters about the war in Buliuk ran contrary with what

was published in the national daily. In forming Mindanews, we vowed “to exercise our power and responsibility to ensure that the public is given a balanced and accurate understanding of events and processes in Mindanao today” (Arguillas, 2010, p. 4). We also recognized that as media practitioners, we are not only disseminators and interpreters of news, but are also major stakeholders in Mindanao’s quest for peace. Thus, Mindanews/MNICC aimed to “re-shape and re-direct the themes on Mindanao currently dominated by terrorism, war, criminality and other forms of violence, to one that presents a realistic, balanced and truthful reporting of the lives, initiatives, relationships, issues, dreams and triumphs of our people” (Arguillas, 2010, p. 4).¹⁷

At the door that day, Paring Bert, who was the executive director of a relatively young institution called Mindawon Initiatives for Cultural Dialogue (here on Mindanawon), was looking for someone who would be able to organize, process and publish the conference proceedings. Based in Jesuit-owned Ateneo de Davao University, Mindanawon was established in April 2000 by a group of scholars and artists interested in developing Mindanao perspectives in relation to environment, politics, development issues and Lumad (Indigenous). It envisions “a just, peaceful, abundant and multicultural Mindanao where women and men are unified by a Mindanawon consciousness that asserts and celebrates diverse identities and the integrity of creation”.

At that time, MNICC was also looking for a variety of ways to generate income and sustain Mindanews’ operations. As MNICC’s finance officer, taking on the Mindanawon project was a no-brainer deal since we had the human resources to field documentors (who are seasoned news writers and journalists) and news editors, not to mention the experience in organizing events. Auspiciously, I was also a lecturer in Ateneo de Davao University’s School of Business

¹⁷ In May 2002, MNICC/Mindanews organized the 1st Mindanao Media Summit where we gathered community paper editors, publishes, TVI and radio station managers in Mindanao. These themes came out as part of the summit’s covenant

and Governance. Since Mindanawon is also based in Ateneo, the location made it easier for me to navigate and orchestrate my workload for the three institutions for which I was working. The other incentive for MNICC accepting the project was that the venue was going to be held at the beach and we would get to work as a team in a leisurely setting.

Little did I expect that such engagement would initiate a process where my various involvements, situated in several spaces of operations and personal history, would come together. UGAT's 24th annual conference theme was "Rootwork and network: Weaving Mindanao Anthropology." The call for papers explored the following questions:

- What are the cultural dimensions of the so-called Mindanao conflict?
- What Indigenous energies can be tapped for peace?
- How do we deal with politicized histories and sensationalized media images?
- How do we celebrate cultural diversity and musical creativity as we face a globalized economy and an all-pervading information technology?
- What have the related disciplines of archaeology, ethnomusicology, political anthropology and anthropology of religion, got to say about development plans, missionary work, Islamic movements, and ecological advocacy?
- And how does an engaged cultural analysis of tri-people Mindanao challenge our professional practice of anthropology? (www.ugat-aap.blogspot.com)

Instead of spending more time swimming at the beach during plenary sessions, as I had planned, I was listening to the paper presentations, only going for a swim when I remembered that we were at the beach. However, in the middle of the conference, news broke out that a former editor of Atenews, the student publication of Ateneo de Davao University, had been killed during a military operation. Benjaline "Beng" Hernandez, was the second former Atenews

editor-in-chief, who was killed after she opted to serve full time with the Lumads (Indigenous Peoples) in Arakan Valley.

I, too, was a former Atenews editor-in-chief. Several documentors in UGAT's conference secretariat, who were also with Mindanews, were also its former editors. We were all cognizant of the rich history of our student publication's role during Martial Law and the post-EDSA years. In the early 1980s, Atenews stood as the only credible newspaper in Davao City where our predecessors of activist campus journalists had courageously reported news of militarization, food blockades and "strategic hamletting" (i.e. forcibly relocating villages by the military to designated areas called "hamlets" with the aim of isolating insurgents, who rely on identified communities that provide them material and political support) (Schwarz, 1995), human rights abuses, and workers' strikes while other news dailies towed the Marcos Government's political line. Atenews was also at the forefront of rebuilding the student movement, particularly the College Editors Guild of the Philippines in Mindanao, during the post-EDSA years. After 1986, progressive student organizations were weakened by several deliberate strategies such as "witch-hunting" of the anti-communist vigilantes. The Atenews' writers and editors strove to connect with other student publications across Mindanao and kept the beacon of critical campus journalism alight. It was in 1986 when Atenews first gave tribute to a former editor-in-chief, Babette Prudencio, who was killed by the military. She was pregnant when she was caught in the crossfire.

That day on 9 April 2002, we carried on and performed our tasks with heavy hearts as we took in the death of Beng Hernandez. I remember asking myself as I watched two of my colleagues, who were also Atenews' alumni, at work, what other ways can we act for Mindanao where young brilliant minds are being snuffed out when all we want is to have a better and peaceful Mindanao.

So, when a professor of anthropology in Xavier University announced that they had formed the Mindanao Anthropology Consortium, comprised of the three Jesuit Universities in Mindanao – Ateneo de Davao University, Xavier University, and Ateneo de Zamboanga, two state universities – Mindanao State University-Iligan Institute of Technology and Mindanao State University-General Santos – and Notre Dame University of Cotabato City owned by the Oblates of Mary Immaculate (OMI), and that scholarships were available, I went to see her right away. I needed to explore my prospects considering that I come from two different fields – a Bachelor of Science in Biology and a Masters in Business Administration. Will Mindanao anthropology contribute in building peace, bridge misunderstandings and clarify messy misinterpretations and perceptions about Mindanao and its peoples? Will it also helped crystallize the Mindanaoan consciousness?

That year in 2002, I threw my lot in as I began my studies in anthropology. It brought me such discomfort as I delved into anthropological thoughts that ripped away my conventional lenses of staring at the world that I remarked to Paring Bert during our first semester. “I hate what you are doing to me.”

4.2 Vignette 2 - Fielding (2003): The Road Inadvertently Taken

My study on mining and its impact on the Subanos began even before I realized it. In May 2003, I was sent to a Subanon community in Sitio Guinabot in the Municipality of Midsalip, Zamboanga del Sur to assist in gathering ethnographic data. Such data were an important requirement in their application for a deed of ownership over their ancestral domain. As one of the students of the Mindanao Anthropology Consortium, I was taught that our task as scholars was to re-write, re-search and re-interpret Mindanao. “Big wars and small wars” (Canuday, 2005) were waged in my island. The complexities of Southern Philippines were historically summed up as “the Mindanao problem.” It was our collective hope at the Consortium that through ethnographic studies, Mindanao would be better understood not only by

outsiders, but also among Mindanaoans themselves: the lumads (Indigenous peoples), the Moros (Muslim tribes) and the Christian migrant settlers.

I indicated early on in the program that I wanted to conduct research with an anthropologist studying the environment. My concern about the environment had been integral to becoming a biology undergrad student in which I came to appreciate up close the wonders of other life forms as minute as the paramecium. When I was a student riding the bus from Davao City to Cagayan de Oro City, I was troubled that the mountains of Bukidnon and Agusan were already bare and bald. I remember that my father, who was a Geodetic Engineer, once told me that when he was a student and a young professional, the mountains in the Davao and Bukidnon regions that he used to survey were colored blue. These concerns and witnessing the deterioration stirred in me the desire to go deeper into Mindanao's interiors.

When the prospect of environmental research in Tawi-Tawi failed to materialize, I shifted my curiosity to the Meranaos, a Muslim tribe in Mindanao who were known for their entrepreneurship and *meratabat* (sense of pride and honor or sense of shame). However, instead of traveling to these Muslim areas, as I had hoped, I found myself climbing up the mountainous terrain of Midsalip in Zamboanga del Norte to chart genealogies of traditional Subanon leaders (Field notes, 28 June 2005). When Presy and Jack, the chieftain's adult children who were hosting us, disclosed to Leah and me that "they asked the help of their bolyan (shaman) to pray for someone who could help them in their quest" to secure and protect their ancestral domain, I found myself drawn to help (Fieldnotes, 28 June 2005). The ethnographic data, which include the genealogy of several traditional chieftains, that we would be gathering for and with the Subanos were important Indigenous Peoples Rights Act requirements. Such data, once established, would attest that they had lived in the area "since time immemorial",

and thereby could apply for a Certificate of Ancestral Domain Title (CADT) or Certificate of Ancestral Land Titles (CALT)¹⁸, a land tenure instrument that would officially secure their ancestral lands and domain. Although the IPRA was promulgated in 1997, in 2003 the IPRA was only on its third year of full implementation since the country's Supreme Court had upheld its constitutionality in 2000.¹⁹

This unexpected and urgent request from the Subanon leaders to the Consortium for anthropological expertise in mapping their genealogies became the fork in my research road. That fork became the road of my research and engagement with the Subanos. My urgent question was who are the Subanos?

4.2.1 Who are the Subanos?

Among my email exchanges with Charles Frake, one of the 'alleged founders' (Frake, 2008, p. 437) of cognitive anthropology who conducted his ethnographic study on the agricultural practices of the Subanon of Sindangan, he asked me this question. "Have you decided how you are going to spell "Subanen/ Subanon/ Subaanen/ Suban'on/ Subanu/ Subano" /(etc) in your dissertation? I had the same problem when I wrote mine in 1955!" (C. Frake, Email correspondence, June 18, 2010).

"Sir," I replied, "I have decided to use Subanon" because they are the Western Subanos who speak clearly with "O" and for a series of mishaps that I experienced in running around several Subanon communities across the peninsula, including being reprimanded by elders

¹⁸ The IPRA was fully implemented in year 2000 after its constitutionality, questioned by lawyers who were said to represent mining companies, was resolved by the court (Leonen and Ballesteros, 2001)

¹⁹ The IPRA was promulgated in 1997. However, lawyers of mining companies questioned its constitutionality in less than a year (Leonen and Ballesteros, 2001). In December 6, 2000, the Supreme Court of the Philippines upheld its constitutionality. For a complete discussion on IPRA's constitutionality, see Leonen, Marvic and Ballesteros, Andre. *A Divided Court, a Conquered People? Notes on the Supreme Court decision on the constitutionality of the Indigenous Peoples Rights Act of 1997*. Philippines: LRC-KSK/Friends of the Earth – Philippines, 2001.

themselves. I recounted to Frake that while I was in Lapuyan, Zamboanga del Sur, and only into half an hour of conversation with the assistant principal upon my arrival, he interrupted me.

“Never ever say Subanon to the elders. That is derogatory to us.”

So, I readjusted to “Subanen”. While there, I learned that it was in Lapuyan that the Alliance Church, an American protestant church which first came in Western Mindanao where the Subanen went through a mass conversion at the turn of the 20th century (Field Notes, July 28, 2004; Irwin, 1994).

Two days later when I finally arrived at my destination in Zamboanga City, which is about eight hundred kilometers away from Lapuyan, Gulang Gukom Timuoy Noel Lima, visibly annoyed at me for repeatedly saying Subanen, told me off in English, a language he knew because he had been an elementary teacher.²⁰ “Don’t call us Subanen. We are Subanon. That is derogatory to us.”

“So, in a way,” I wrote Frake, “the Subanons of the Gukom of the Pito Kodolongan (Seven Rivers) settled that for me (C. Frake, Email correspondence, June 18, 2010).” It was only after clicking on the send button that I realized how ingénue my response to Frake had been.

The Subanos are the largest group among the non-Muslim ethnic cultural communities in Mindanao (Suminguit 1989) that inhabit Zamboanga Peninsula. Antonion Pigafetta, the chronicler of Ferdinand Magellan’s expedition from 1519-1522, referred to them as Subanon nation (cited in Christie, 1909). In 1955, Charles Frake determined that the Subanos can be “provisionally divided into at least four groups: the Malindang in Misamis Occidental, the

²⁰ Hall (1983) explains that the Western Subanon have any or all of the following languages in his repertoire: Visayan (Ilonggo, Cebuano), Ilocano, Chavacano, Kolibugan, Magindanaon, Tausug, Tagalog and English depending on the Subanon area and the number of speakers of these other languages in those areas. The level of education of the Subano also determines his familiarity with Tagalog and English.

Sindangan in northeastern Zamboanga del Norte, the Sibugay in eastern Zamboanga del Sur, and the Siukun in the southern extension of the peninsula” (1955, p. 11). His classifications were based on geographical location, adding that the Subanons themselves have no terminology for distinguishing cultural or linguistic subdivisions. Frake also noted that the Siukun group is the most distinct linguistically based on Christie’s graduate studies thesis and Pittman’s (1951) word lists. He changed the names Christie (1909, p. 6) had used since he considered these to be “misleading and not easily referable to present maps” (Frake, 1955, p. 11). Frake (1995) equated Malindang to Christie’s Dapitan; Sindangan to Christie’s Sindangan, but extending further east; Siukun to Christie’s Buluan-Kipit; Sibugay to Christie’s Tukuran.

Using language as the unit of analysis, the Summer Institute of Linguistics (SIL) (2005) has mapped out the different Subanon sublinguistic groups in Zamboanga Peninsula. SIL has identified and classified at least five distinct Subanon linguistic groups:²¹

- 1) *Subanen*, Central or the Sindangan Subanon located in Eastern Zamboanga Peninsula;
- 2) *Subanen* Northern or Tuboy Subanon, dispersed around Sergio Osmena and Mutia in Tuboy, Zamboanga del Norte and in Salog in Misamis Occidental;
- 3) *Subanon*, Kolibugan or Kolibugan, in the southern part of Zamboanga del Norte and Zamboanga del Sur provinces;

²¹ Lobel and Hall (2010), however, notes that there are six Subanon languages: 1) Northern Subanen (Dikayunhen); 2) Eastern Subanen (Salugnen); 3) Central Subanen (Tuboy); 4) Southern Subanen; 5) Western Subanon and Western Kolibugan; and 6) Tawlet Kalibugan and Salug-Godod Subanen. They also reported that the primary distinction between the Subanen/Subanon groups and the Kalibugan/Kolibugan groups is religious, not linguistic.

- 4) *Subanun*, Lapuyan. alternatively referred to as Lapuyen and Margosatubig Subanen; and
- 5) Western Subanon or Siocon (2005).

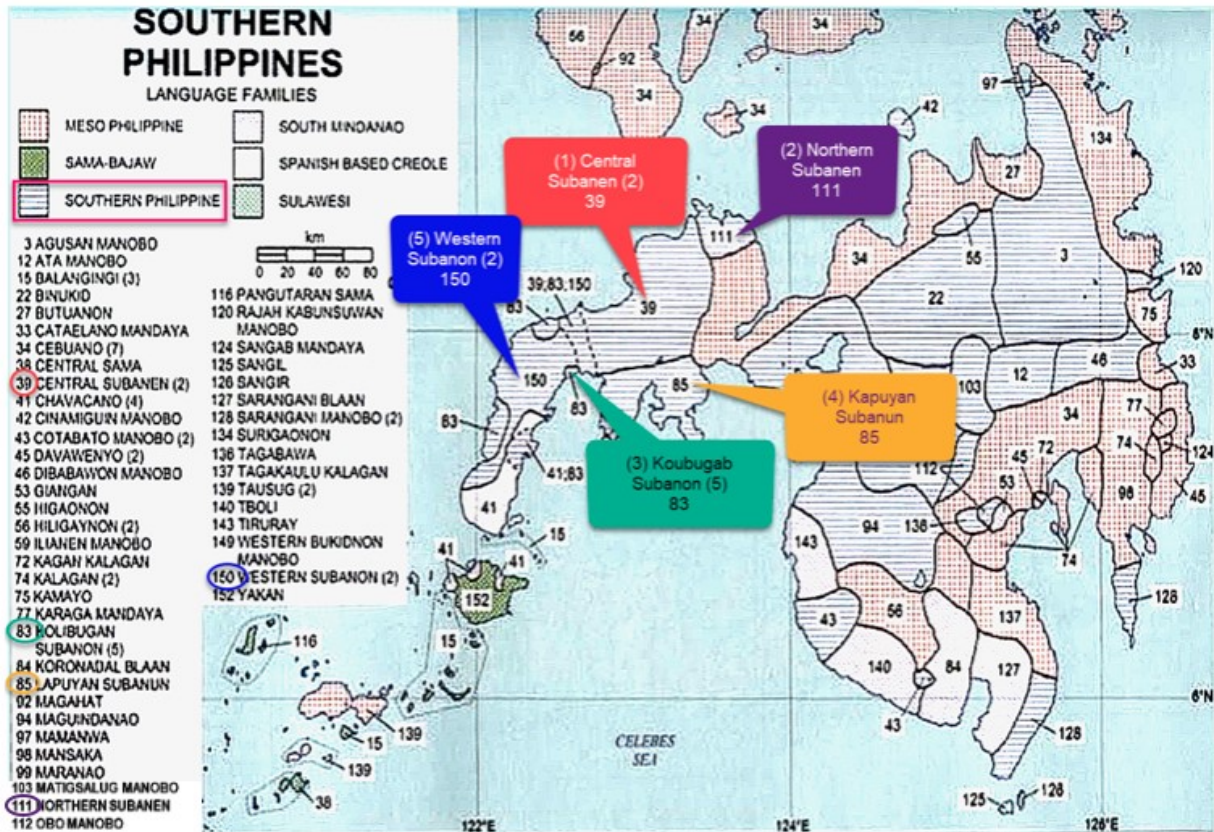


Figure 4-2. Location of Subanon linguistic group in Zamboanga Peninsula

Source: Summer Institute of Linguistics (2005)

The Subanon language belongs to the Austronesian, Malayo-Polynesian, Western Malayo-Polynesian language tree (SIL, 2004) among the Philippines' 175 languages (Summer Institute of Linguistics, 2005). The five Subano linguistic groups barely understand each other. The Lapuyan Subanon understand the Sindangan Subanos but not vice versa. The Sindangan Subanon have some lexical similarities with those from Siocon Subanon, who in turn are nearly intelligible to the

Subanon Kolibugan. The Tuboy Subanon have 63% intelligibility of Sindangan Subano and 40% of Lapuyan (SIL, 2004)).

Based on my fieldwork, however, rather than using linguistic designations and distinctions, the Subanos refer to themselves through natural and traditional boundaries such as mountain ridges that separate their Indigenous territories. Thus, they refer to one another as G'taw (People) Sindangan, G'taw Siukun, G'taw Dibaloy, G'taw Tasan, G'taw Piyaw.

Extensive anthropological studies on the Subano had been conducted by American anthropologists Emerson Brewer Christie in 1909, Charles Frake in 1955, and a Subanon anthropologist Vel Suminguit in 1989. Lt. Col. John Park Finley, an American military governor of the Mindanao Province, also made an ethnographical and geographical sketch of the Subanu, and, along with William Churchill, attempted to conduct linguistics study on the Subanon language (Finley & Churchill, 2013). Their effort in linguistics, however, was found to be erroneous (Frake, 1955) and not according to standards of ethnography, but as “merely the outcome of his impressions and those of early explorers” (Suminguit, 1989). Nevertheless, Finley’s work provides snippets of a military account on how the Americans strategized carrying out subjugation of Mindanao, and what appraisal the American colonialists made of the Subano as a having “peaceful attitude... and their industrious habits as the native farmers of the hills... (and) “who preferred peace and agricultural development to piracy and war” (Finley & Churchill, 1913, p. 5). This characterization contrasted with that of the Illanos Moros of Lanao and the bay of Illana who resisted being controlling in that part of Mindanao.

Both Christie and Frake’s ethnographic works had focused on the Subanos of Sindangan. The former studied the Piyaw group, who occupy the area behind Sindangan Bay along the drainages of the Piao (Piayaw) and Sindangan Rivers and were strongly influenced by the

Moros. The latter conducted research on the Dasakan group, who were less subjected under the Moro trade and tribute system (Frake, 1955). Suminguit's ethnography, on the other hand, covered the Salugnon Subanun, who were residing in and around Mt. Malindang, particularly in the municipalities of Josefina, Zamboanga del Sur and Don Mariano Marcos, and Misamis Occidental, located in the Northeastern part of Zamboanga Peninsula. I visited the Subanos in Sindangan and Misamis Occidental. I also met with other traditional Subanon leaders in Zamboanga Peninsula, whose experience with state development policies, conflict, and environmental changes were also applicable to the Subanos in Siocon.²² I must also stress, however, that more research should be conducted on the various Subanon groups not only to bring greater understanding but also to facilitate peace in Zamboanga peninsula.

Christie, who worked as an assistant in the Ethnological Survey in the Philippines from 1904 and 1907, was a product of his time.²³ Like his contemporaries, Christie viewed the Subanos as “wild tribes” (Fay-Cooper, 1913) who had to be civilized, assimilated and educated. Prevailing and conflicting characterizations of the peoples of the Philippines in the early 1900s were “wild”, non-Christian, civilized, Christianized, and falling in the classification as Negritos, Mohammedan Malays, pagan Malays and civilized Malays (Worcester, 1899). By the time Christie's *Subanus of Sindangan* was published in 1909, the Americans had already successfully established a stronghold in Zamboanga and were already in transition from a military government to a full civil government (Miller, 2009). The land laws and policies that were introduced and implemented were designed towards gaining state control over its new territory

²² Trainings and workshops include human rights and para-legal training, ethnography and genealogy charting which the author has also participated as trainer. I have also attended Subanon dispute resolution/justice system, buklog and other rituals in several communities.

²³ Christie remained associated with the Division of Ethnology until 1915 (<http://www.mnhs.org/library/findaids/P1282#a8>)

and peoples, who had to be assimilated into the system. The effect was to alienate and marginalize those who chose not to be Christianized such as the Subanos.

Frake's ethnography examined the relationship between shifting cultivation and social organization, which contributed to his theorizings on cognitive anthropology. Shifting cultivation, which is also known as slash and burn, or swidden farming involves "the impermanent agricultural use of plots produced by the cutting back and burning off of vegetative cover" (Conklin, 1969, p. 221) to create a field called swidden. Frake (1955) added that this type of farming also entails clearing of the forest by means of knife, ax and fire. No plows, draft animals, or fertilizers were used and planting was made by dibbling or by broadcast sowing. After the swidden was cultivated after a couple of years through intercropping, the Subanos abandon it until it was reforested after five to fifteen years. With such practices, Frake concluded that the Subanon's shifting cultivation did little to stimulate the development of political institutions, social stratifications or the formation of local unilinear descent, which were important to developing corporate functions such as land ownership, statehood, class stratification, and political representation.

In describing the fast-changing landscape of the Subanos in the late 1950s, Frake noted that the greatest threat to their culture was "neither the Moro nor the missionary, but the Bisayan settler, who seeks land rather than booty or souls and by so doing strikes at the foundation of Subanon society – shifting cultivation" (Frake, 1955, p. 5). Frake (1955) explained that this was primarily due to the pacification and the extension of communications that followed American control resulting in the rapid growth of the lowland Christian population. In Christie's time, Zamboanga peninsula was just beginning to be opened to outsiders as the Americans worked to further entrench their hold in the region. Frake (1955) noted that the Subanons (Dasakan group)

were able to retain their cultural identity against the influences of the Moro and Christian Spanish colonizers, from 1521 when they first set foot there until the end of the nineteenth century. The Islamized Iranuns and Balangngingi were known to conduct slave raiding (Warren, 1978, 2002), including into Subanon settlements but these were stopped when the Spanish government established a garrison in Zamboanga City and Dipolog in northern part of Zamboang peninsula around 1635. However, the garrison was abandoned in 1661. In 1713, Spain re-established its presence in Zamboanga but was unable to control Mindanao's tribes the way they had in Luzon and the Visayas (Christie, 1909).

For his part, Suminguit (1989) described his work as more of a "salvage ethnography" (p. 9), in which he aimed at documenting what was "left" of his people's way of life in terms of material culture (settlements and houses, industries and native arts, songs and musical instruments) and economic adaptive strategies (hunting-gathering and fishing, shifting cultivation, trading, hired laborer or day-wage earner). He also described the social organization of the Salugnon Subanos (kinship system and terms, family, courtship and marriage), political organization and administration of justice and adjudicating different types of conflict, and their religious life (belief system and rituals). His study was the first ethnographic study of the Salugnon Subanos in Mt. Malindang, particularly in the municipalities of Josefina in Zamboanga del Sur and Don Mariano Marcos in Misamis Occidental. He described the internal dynamism of the Salugnon Subanon's traditional culture, and the changes brought about by external forces such as the presence of logging companies, foresters and the military. Suminguit cited his own experience as to how his people were subjected to forced labor by government soldiers. Conducting his research in late 1980s, Suminguit (1989) documented how logging companies

forcibly opened Subanon lands to peasants from the crowded lowlands, and how foresters, logging company guards and the military had exploited and harassed the Indigenous Subanos.

...The Subanon, the rightful owner of the forest land and whose existence depended on it, have been prevented from gathering forest products by foresters, government soldiers and logging company guards. The loggers claim that they have 'exclusive rights' over the forest products under their concession. For them, the Subanon gathering of forest products and clearing of forest for farms are illegal because the Subanon do not have the 'license' to do so. Under the Regalian Doctrine, the forest land and also all forest products belong to the State. So they confiscated rattan and ornamental plants gathered by the Subanon which they in turn sell to licensed rattan buyers. They also confiscated axes and bolos of the shifting cultivators, which they either sell or use at home (Suminguit, 1989, p. 41).

Originally inhabiting the fertile lowlands of Salug River, the Salugnon Subanon fled to the interior of the mountains to escape the rapid influx of both Islamized Muslims and Christian settlers from Luzon and the Visayas, who arrived in various waves from the 1950s to the 1970s. The early settlers, whom the Subanos called *dumagat*, meaning “those who came by sea were peasants. They asked the consent of Subanos through the *gukom* for permission to till their own land. With the Subanon community’s concurrence, the *dumagat* were allowed to occupy the land on condition that they must perform a ritual when they have to abandon their field” (Suminguit, 1989, p. 38). As a token, the settlers gave salt, clothes and cans of sardines.²⁴

It is critical to recognize that the Subanos’ concept of land ownership is intricately linked with their belief system. They have no concept of private or even communal ownership of their land. What they have is the right of usufruct.²⁵ “Forested land is a free good” (Frake, 1955, p.

²⁴ The Subanos in Siocon also shared a similar story about the entry of the Dumagats. An interview with Timuoy Ben Alog revealed that his father exchanged a piece of land for several cans of sardines.

²⁵ The Civil Code of the Philippines (Republic Act No. 386 of 1949) stipulates that usufruct gives a right to enjoy the property of another with the obligation of preserving its form and substance, unless the title constituting it or the law otherwise provides (R.A. 386, Art. 562)

74); to do *kaingin* (swidden farming or shifting cultivation), which is a source of livelihood and an age-old farming practice wherein the fields are cleared by burning and are cropped discontinuously, which entails periods of fallowing that are longer than periods of cropping and is integral to traditional culture (Conklin, 1957) in upland Indigenous societies in the Philippines. The “ownership” of the plot, which is established by the act of clearing (Lopez-Gonzaga, 1983 in Suminguit 1989), is always limited in the sense that the tribesman has exclusive right to use it for a limited but unspecified period (Schlegel, 1970). While the Subanon may not claim the land as their own, they have a clear concept of territoriality where each one of them has equal access to the land, and that each family possesses a swidden (Frake, 1959; Suminguit, 1989). As Frake had observed, “the individual or group of individuals that is responsible for preparing and cultivating a particular swidden has rights to the crops grown on it during its use” (Frake, 1959, p. 101). Because of their belief system that is linked with their creator (Apo Gumalang to the Salugnong Subanos, Apo Mosugya to the Siocon Subanos) who owns all things, “the entire society and the entire generation were only given the right to use land but they have no right to own it. They also have the duty to preserve it for the use of future generations” (Suminguit, 1989, p. 94). As the Philippine state opened Mindanao’s vast tracks of land to appease the brewing peasant unrest in Luzon and the Visayas, more dumagat and Christian settlers came to claim and settle in various Indigenous territories across Southern Philippines. This influx brought with it major differences in worldviews pertaining to land use and ownership between the Subanos and the migrant settlers. Now the dumagats were supported by the state, which by the virtue of the Regalian Doctrine, owns all land and resources in the Philippines (Philippine Constitution 1986, Article XII, sec. 2; Philippine Constitution 1973, Article XVI, sec. 8; Commonwealth Act No. 141 of 1963; Presidential Decree No. 1073 of 1977, sec. 4; Presidential Decree No. 1529 of 1978, sec. 14 and 35).

The arrival of peasant settlers from Northern and Southern Philippines also upset the Subanon method of shifting cultivation as the newly arrived peasant settlers never shifted their fields after clearing the land by slash-and-burn. The migrants introduced non-fallowed dry field plow sedentary agriculture that led to massive land degradation devastating to the environment. Towards the end of 1960s, the Subanos already realized that they would have to adapt to this method of farming or else they would go landless (Frake, 1955). However, this shift in cultivation entailed a requirement of declaring land ownership with Provincial authorities to obtain a title. Such action was “costly and difficult for the illiterate Subanon”. It also meant that the Subano were coopted into the formal political system of the lowlander as a taxpayer and as subject to the local official who was appointed by the municipal mayor. This made the Subanos feel “...severely handicapped by their lack of knowledge of the legal and political system of the Christian settlers” (Frake, 1955).

Not unexpectedly, conflict between Subano and non-Subanon communities arose. Conflict occurred when the Subanos were restricted from gathering forest products. Lacking legal documents, they were often accused of “land grabbing”. Suminguit (1989) wrote that some would challenge the outsider and bring the case to the Office of the Barangay Captain, a village elected official who is a non-Subano adjudicator.²⁶ “As one would expect, the non-Subanon adjudicator is partial to non-Subanon clients. The Subanon – either plaintiff or defendant – always comes out a loser... partly due to the fact that the Subanon are not knowledgeable about the processes of Western jurisprudence” (Suminguit, 1989, p. 144). Thus, the Subanos tended to avoid such formal conflict and retreated farther into the mountains.

In the 1980s, the plight of the Subanos in Zamboanga Peninsula had worsened. With increasing migrant population, discrimination, and scarcer land, they were forced to move farther

²⁶ A barangay is the smallest level of administrative division of the Philippines. The barangay captain, who is an elected official, executes minor judicial powers such as dispute settlement.

up the mountains. Subanon communities were further beleaguered by being caught in the middle of the armed conflicts waged by two different rebel groups against the Philippine Government. Subanon land “means forests and landscapes for rebel groups like the Moro Islamic Liberation Front (MILF) and the Communist Party of the Philippines/New Peoples’ Army (CPP/NPA) to hide and stage their offensives against the government’s Armed Forces of the Philippines (AFP) and vice versa.”²⁷ Indigenous lands are battle grounds” (Fieldnotes, June 28, 2005) and in Midsalip, Subanon land became a no man’s land in the 1980s.

4.2.2 Fielding in Midsalip

My curiosity about mining and extractive development was stirred while trekking the hills of Guinabot and Mt. Tandasag. “Naay itom nga puthaw diha (that mountain has black metal),” Presy and Crisno, our Subanon companions said as they pointed at a mountain across from us as we climbed up Tandasag’s steep mountain slope. As we rested on its peak where we could see Pinukis, a mountain sacred to the Subanos of Zamboanga del Sur, they continued, “naay gold diha nga porma ug kabayo” (that mountain has gold that is formed like a horse). When we heard news that a mining company had already been applying for a mining claim within their ancestral domain, gathering ethnographic data, mapping Subanon cultural sites (burial places and sacred areas) and charting genealogies of chieftains became more urgent.

²⁷ The Moro Islamic Liberation Front is a splinter group of the Moro National Liberation Front, which was co-founded by Nur Misuari and Hashim Salamat in 1972. The MNLF sought to establish an independent Islamic state or autonomous region for the Filipino Muslim minority, known as the Moro people (Stanford University, 2015).

Militarization also resulted in hamletting, which, in turn, led to mass evacuations and the migration of Subanos to the cities to earn a living (Suminguit, 1989). As a military strategy, hamletting isolated the rebels from the communities that provided them resources and political support. But there was also a development component to these forcible relocations. Economic activities linked to national development initiatives such as land grabbing, logging activities, massive infrastructure projects of multinational corporations, favours to cronies had caused internal displacements of peasants and Indigenous peoples like the Subanos (Schwarz, 1995).

Crisno, a Tadtad member, showed us his many “anting-anting” (amulets and magic charm). One is tied around his belly, another with animal fangs worn as a necklace. He believed that these amulets both protected him from harm and give him power. The stones-cum-amulets, according to Crisno, were shown to Tadtad members in their dream. Crisno got his anting-anting when he saw it floating with the ripples beside the river. As a Tadtad member, he avoided eating food “nga gituhog nga murag saging” (skewered like deep fried or grilled bananas which locals refer to as “bananaque”). In doing so, he considered himself to be immune to death by a sword or knife. Crisno did, however, carry a gun, especially when we were going from one barangay to another in seeking out the other timoays (chieftains). In 2005, Banes, as Crisno was fondly called by his siblings, was “ambushed by an assailant wearing a ski mask. He was shot on the head and chest” (Field notes, July 26, 2005).

Crisno also carried with him a small vial of oil. When we went to a neighboring sitio for a wedding, he and his father, the Timouy, made us drink it. From the smell of the food we had at dinner, they recognized that a potion, which might cause a malady or death in the long term, had been added. Without thinking much about it, I drank the oil from the vial only to go into a coughing fit because I was so grossed out with the awful taste. It was a tremendous effort not to puke. When I

calmed down, my Subanon companions disclosed that that oil was made 20 years ago as an antidote for “hilo” (poison). Presy told us that that village we had gone to was known to poison their adversaries or strangers. She also explained that whoever poured potion in the food does not necessarily intend to poison someone. It was meant to test the efficacy of their power as sorcerers.

A year later at Canatuan, I was again confronted with the Subanos’ notion of poison, sorcery and witchcraft which made me see my vulnerability in a different sense. “Yesterday, Timouy Ben Alog belatedly forewarned me about what kind of poison the other party could give me (Fieldnotes, April 20, 2004).” He was able to contact me when I was near TVI’s helipad in Canatuan on my last day of fieldwork in Canatuan. From that high altitude, cell signals were available.

“Pen, pagbantay nila diha kay manghiloay na sila (Pen, be wary of them because they are known poisoners),” he said.

“How?” I asked in the vernacular.

“Mugamit sila’g apdo sa itom nga halas ug ibutang sa imong pagkaon (They would use a black snake’s gall bladder and put it in your food),” he replied.

“It didn’t help to know that I was already having diarrhea” (Field notes, April 20, 2004).

4.2.3 The Unintended Consequences of Development

As Suminguait (1989) had mentioned in his ethnography, there were changes in the Subanon’s traditional culture due to logging and presence of the military. In 2003, when I was in Midsalip, I was detained at the mayor’s house. A forest guard, also a *dumagat* (a settler or non-Indigenous person), accosted me while I was buying food and some fieldwork supplies at the marketplace in the poblacion.

It was far from my mind that my presence would agitate local authorities. For almost an hour, the Mayor asked me routine questions. What was I doing there? Who was I with? Where

was I residing? Standing behind him was the forest guard intently watching me. When I emerged from the Mayor's residence, my Subanon companions immediately whisked me away from the town and headed back to Guinabot. In contrast to our chattering and excitement earlier that morning as we hiked down to the town's center, we were all silent as we returned to the foothills of Mount Tandasag.

"Gidakup ug gi-interogit siya (She was arrested and interrogated)", my Subanon companions reported to the Timuoy (chieftain) as soon as we arrived. I waited for the Timuay to speak. It was then I learned that the same forest guard had arrested and put my companions and other Subanos in prison in the past for *kaingin* (swidden farming). Such farming was declared illegal in several municipalities in Zamboanga Peninsula. This prohibition came from the Community Stewardship Forestry Area (CSFA). This World Bank funded government project was intended to restore Mindanao's forest cover, decimated in the decades of the 70s and 80s as part of the Philippine State's development agenda that relied heavily on the logging industry (Vitug, 2002; Casino, 2000).

Reflecting on the incident that night, I became aware of the Subanos' collective trauma and the unintended consequences of the Philippine State's development agenda on their lives. Presy remarked that because the Subanos were prevented from gathering rattan and doing swidden farming which made their lives more difficult, she had been forced to go to Manila to work as a housemaid.

"Dato akong amo (My employers are rich)," she said as she told of being employed as househelp for at least two years before coming back to Guinabot because of her children.

"Pero mas pinangga pa nila ang ilang mga iro kesa sa amo nga mga tawo (They love their dogs more than us, who are humans)," Presy remarked, telling us about her living conditions in

Metro Manila in Luzon. I asked why this was so. She explained that it was because their dogs sleep in air-conditioned rooms and they feed them with “stik” (steak).

“Kami mga katabang, sardinas ra ug nagdasok mi sa isa ka gamay nga kwarto nga walay bintana ug rebintador (We, the househelp, were fed with sardines and we were all crammed inside a small room without a window or electric fan).” Presy added that they have high hopes in applying for an ancestral domain title which would allow them to own their land.

But, as we moved from one sitio to another, we encountered resistance from the migrant settlers. When Crisno finished explaining to a barangay captain about why we were conducting a genealogy survey and that it was part of the Subanos’ ancestral domain claim, the latter firmly asserted, “kung unsa ang nakasabutan sa mga katiguwangan malata man sa sardinas ipadayon (whatever our elders have agreed on, may this be through an exchange for a piece of land from the Subanos with a can of sardines from the Dumagat, should continue to be respected and observed).”

It was not surprising then that barangay officials would accost us and our companions regarding our business.

4.2.4 Fielding among the Subanos of Zamboanga del Sur

From July to September of 2003, I briefly evaluated how a fund-driven NGO’s development project was affecting another Subanon community in Zamboanga del Sur. Here I came to know firsthand the contradictions in the practice of non-government organizations that were purported to serve the masses. While NGOs are regarded to be grassroots-oriented in implementing development projects intended to improve the lives of the Subanos, I was left wondering about the ethics and moral responsibilities of NGOs whose personnel benefitted from

the project, while its Subanon “beneficiaries” did not. That ascription of “beneficiaries” itself already conveys a relationship and a mindset that are not based on partnership.

In December that year, I assisted two anthropology professors in conducting several workshops with (1) field agents and other employees handling land claims in the National Commission on Indigenous Peoples’ (NCIP) Region IX office, and (2) Subanon traditional leaders coming from Zamboanga de Sibugay and Zamboanga del Sur Provinces. Held in Pagadian City, the capital of Zamboanga del Sur, the workshops were about gathering ethnographic data, understanding kinship and systems of relatedness, and properly charting genealogies.

Through those workshops, I came to know of the different Subanon sub-linguistic groups in Zamboanga Peninsula and the variations in their cultural practices. It was only by speaking Bisaya, a language spoken by migrant settlers coming from Central Philippines and which I also speak, that we were able to understand one another.²⁸ It was in those workshops that I first heard about the legitimacy and identity issues surrounding the Indigenous leaders in a mining community located in Sitio Canatuan, in the Municipality of Siocon in Zamboanga del Norte Province. One of NCIP’s field officer, who participated in the workshop, had declared an Indigenous leader to be not of timouy (chieftain) lineage, but that of a bolyan (shaman). In assisting in those workshops, my network also expanded to include church workers and development workers, who were employed by international donor agencies supporting the NCIP and Indigenous organizations.

²⁸ Alternate names for Bisaya are Cebuano, Sebuano, Sugbuanon, Sugbuanon, Visayan. It is language that is widespread in Central Philippines and parts of Mindanao such as in Zamboanga Peninsula, Southern and Northern Mindanao. It is also spoken by the Central Subanen, Kolibugan Subanon, Northern Subanen, and Southern Subanen (Simons & Fenig, 2018).

Because of my familiarity with the Subanos, six weeks later, in early February 2004, I was invited to assist an anthropology professor in documenting a Subanon dispute resolution process in the Municipality of Siocon in Zamboanga del Norte. Two donor agencies, the US-based Catholic Relief Services (CRS) and the UK-based Catholic Agency for Overseas Development (CAFOD), were supporting two programs of the *Tupo Nog Pito Kobogolalan Pogokbit Nog Golal Nog Pito Kobogolalan Gonat Sog Pito Kodolongan*'s (The Descendants of the Seven Traditional Leaders of the Seven Rivers from here on "Gukom sog Pito Kodolongan"). The two programs were: 1) peace initiatives in resolving the conflict among Subanos in Mount Canatuan regarding leadership and identity issues in Mt. Canatuan, and 2) psycho-social interventions to help their Subanon members heal from the trauma when Siocon was sieged by the Moro Islamic Liberation Front in May 2003 killing at least 13 people (D. Garcia, 2003). The method that the Gukom sog Pito Kodolongan used in ascertaining legitimacy of individuals claiming to be traditional leaders in Mt. Canatuan was having each person recite an oral narration of his genealogy. The process had alerted me to the Subano's para-patrilineal kinship system, which would make sense in a horticultural society.

A few days later, I again encountered the Gukom sog Pito Kodolongan in Dipolog City, the capital of Zamboanga del Norte Province. The Gulang Gukom and the tribal chieftains of the seven rivers were also participating in the ethnography and genealogy workshops I was assisting. It was there that Gulang Gukom Noel Lima requested that I chart their genealogy for them. Over three days and two nights, as each gukom and their sons narrated their ancestors and how they were related to one another, we charted their genealogies one by one. On the fourth day, I handed a long manila scroll pieced together from the many individual genealogies to the Gulang gukom. "This is important

to us, who are the real traditional legitimate leaders,” the Gulang Gukom said. “There are a lot of people who are claiming that they are traditional Subanon leaders of Canatuan.”

The entry of the large-scale mining project had drawn Subanos from other traditional territories to migrate to Canatuan, which the Gukom of the Seven Rivers regard as a sacred mountain (Sanz, 2007). These Indigenous Subanon migrants, who outnumbered the local Subanos in Canatuan, supported TVI Pacific’s mineral development project. Charting their genealogy, according to the Gulang Gukom, would set the record straight as to who were the rightful traditional leaders in Canatuan. It turned out that the genealogy charting was only the beginning of a series of collaborations I had with the leaders of the Siocon Subanos and various community groups that had been affected by TVI’s mineral development.

When I realized that my “ethnographic moment” , which is that “moment of immersement...that is simultaneously total and partial” (Strathern, 1999, p. 1), had actually occurred without me being aware of it, I decided to track down the Gukom sog Pito Kodolongan. In late February 2004, I sat among the members of Gukom sog Pito Kodolongan who were all assembled in Zamboanga City to discuss matters regarding their ancestral domain claims. It was while they were discussing the codification of their customary laws, which was also a requirement in the IPRA when Indigenous communities are applying for a deed of ownership over their ancestral territories, that my presence was acknowledged.

Speaking in the Bisayan language, I followed their example when introducing themselves in a formal gathering that includes non-Subanos. I stated my name, the name of my father and his ancestors up to the sixth generation (like the chieftains, I also know my paternal line), my

ethnicity (Ilonggo and thereby a “duamagat” which means from across the sea),²⁹ where I come from (born and raised in Davao City) and what I do. I also narrated my previous works with the Subanos in Zamboanga del Sur, stating that one of my projects was in collaboration with an Indigenous Subanon leader who was also the brother of NCIP’s chairperson at that time.³⁰ Then, I stated my research intentions. After I spoke, the room fell silent.

Timouy Ferdinand “Ferding” Molay, chieftain of Malubal and president of Pigsalabukan Bansa Subanon (now defunct), an organization of Indigenous Subanon leaders in Zamboanga Peninsula, broke the silence. He responded positively saying that my research would help them in the documentation of their gukom processes. But he cautioned, speaking in Bisaya, that once customary law is written, that will be the beginning of its end. (Fieldnotes, February 21, 2004).

The Gulang Gukom Noel Lima, who was the oldest among the chieftains and considered the primary leader in Gukom sog Pito Kodolongan since he is a direct descendant of the para-

²⁹ The term “dumagat” is a Bisayan word. It is used by the Subanos to refer to migrant settlers from across the seas meaning from Northern or Central Philippines. The Ilonggos are from the Western Visayas region: west and central Capiz province, and Guimaras island; Iloilo province, Iloilo city northeast along Guimaras strait to Binon-an; Negros Island region: most of Negros Occidental province; Negros Oriental province (Simons & Fenig, 2018). The Philippine State’s migration policy in the 1930s and post-World War II have brought the Ilonggos to Mindanao. Most Ilonggo migrants have established communities in Autonomous Region in Muslim Mindanao namely in Maguindanao province, small border area south of Timbangan; North Cotabato province west of Lake Buluan; South Cotabato province towards Bayabas; east and west central Sultan Kudarat province. In the 1970s, the Ilonggo migrants, alongside Indigenous Tedurays in Cotabao and Northern Lanao, formed a Christian militia named the Ilonggo Land Grabbers Association or “ILAGA” (literally rat) as a response against “Blackshirts and Barracudas” which were formed by the Muslims (Mindanao) Independence Movement (MIM). The “ILAGA” carried out numerous atrocities (e.g. massacring civilians, ransacking villages, burning houses and mosques. The group not only killed the Moros, but also mutilated the dead bodies (e.g. carving out ears, slashing nipples, plucking out eyes, and marking bodies with crosses) (Macasalong, 2013). The Blackshirts were mainly composed of young Moros who were given rigorous trainings in the Middle East and nearby Muslim countries in preparation for ensuing battles with the Philippine government forces (Macasalong, 2013). The MIM was founded following the Jabaidah massacre of young Moros in 1968 (Magdalena, 1977; May, 1992). The Philippine Army was allegedly training a group of young Muslims in a secret commando-style training called Jabaidah to agitate the people of Sabah and North Borneo to demand annexation by the Philippines (Nobel, 1976). The Ilagas and the Blackshirts would attack Muslims or Christian communities.

³⁰ At that time of fieldwork, I did not know that the father of the NCIP chairperson and the Indigenous leader I was collaborating with was also the lawyer of the chieftain of Canatuan when they filed a quo warrant case against the invented council of elders.

patrilineal line of Timuoy Manglang, disagreed with Timouy Ferding. He pointed out that, “wala naghiusa ang kultura sa Subanon even with the Pito Kodolungan. Pero gamay lang ang diperensya (We have different cultures even among the seven rivers. But the difference is slight)” (Fieldnotes, February 21, 2004).

The Gulang Gukom warned me that someone would likely contest my work. “You must be aware that you are going to meet a lot of criticisms. You should authenticate it just in case there is discrepancy, it will be corrected right away,” he said in Bisaya. He advised that I should specify the area of the Subanos to limit the distortion. “Writing it (the gukom process) is a delicate matter for us,” he said. “Plantsaon maayo (It has to be ironed out well)” (Fieldnotes, February 21, 2004). Datu Dumagia, a chieftain from Patawag, was more emphatic in his objection to the codification of their customary laws. He further stated that charting their genealogy two weeks earlier in Dipolog City should not have happened because it causes “gaba” (a curse or retribution on the wrongdoer, who committed a sacrilege, by God, an ancestral spirit or a human person).³¹

I asked to speak again to clarify that my intention was not to codify their customary laws. I stated that what I am most interested in is the Gukom sog Pito Kodolungan’s Indigenous governance system, territorial space, and, in the light of the on-going peace process of the Government of the Republic of the Philippines and the Moro Islamic Liberation Front, my intention is to identify where Moro territories overlap with Indigenous claims.

The room fell silent again. When one of them spoke, he suggested that I could do two writings for them. One would be the documentation of the whole process. The second would be

³¹ Gaba, a Bisayan term, is a complex cultural form that ascribing it by the word “curse” or “divine retribution” narrows down its meaning. It is associated with a socio-religious pattern of seeing “gaba” as punishment for some transgressions (L.C. Garcia, 1976). Gaba is similar but not the same as the Hindu concept of karma, and its current use with that meaning is associated with the Christian teachings (Fernandez, 2004)

the codifying of the customary laws. In short, through his words, they gave me consent to conduct field research, but with a tacit mandate that I will be writing for them. The Gukom sog Pito Kodolongan also narrowed down my research site. It will be Siocon. That was how Siocon became my fieldwork site.

The effects of mining in Siocon, however, became my research focus two weeks later, when Mindanews, a cooperative of media workers in Mindanao which I had co-founded in 2001, sent me to Siocon to cover a shooting incident. Four people, including an Indigenous Subanon leader, were wounded when TVI's security opened fire on a group of peasants who had set up a barricade to obstruct the company's mining operations. Wearing a journalist hat, I was able to converse with different individuals who were Yakan, Sama, Kolibugan, Tausug, Subano, Ilonggo Pangasinense, and Ilokano.

It was here I was confronted with another dimension of "the Mindanao problem" which must also be given due attention. Mindanao's Indigenous peoples struggle for land and resources. With due respect to the past use of this pejorative phrase, in my work I expanded the notion of "the Mindanao problem" to include the Indigenous peoples' struggle against mineral development aggression and the conflict (armed or not) resulting from imposed large-scale resource extraction. Resource conflicts may not be as massive or bloody as those waged by the Moro people against the Philippine State. But these conflicts would be as heinous, violent with ambushes killing civilians, chronic and devastating for communities. Development projects have consequences that are not only intended, but also unintended, unacknowledged, unrecognized, and unpredicted. In Mindanao, these consequences would also include armed conflict and violence causing trauma, significant loss of life, and disruption of ways of life.

In the field, I came to understand that association with a particular NGO elicits biases and prejudices. In 2004, I was commissioned to conduct research on free, prior, and informed consent in relation to the Canatuan case by Tebtebba (Indigenous Peoples' International Centre for Policy Research and Education), which has consultative status with the United Nations' Economic and Social Council (ECOSOC).³² Little did I know that mining companies like TVI view Tebtebba as their adversary (Fieldnotes, December 11, 2004). When I interviewed TVI's plant manager, he expressed right away his dislike of journalists. But when he learned that I was trained as a biologist and was currently studying anthropology, "I saw him slowly warming up." He later confided to me that there are "two poles or continuum – the company and the community." He further disclosed that he is irritated with the demands of the Subanos....TVI has created expectations. The Subanons' lawyer would send a representative to him asking for Php 200 to buy gasoline. Then there's another member of the Council of Elders (CoE), who requested that he advance his honorarium for six months because his son or daughter was getting married. On top of the monthly one percent royalty they provided the CoE, TVI gave them a monthly honorarium of Php 6,000 each member to hold their weekly meetings (Fieldnotes, December 11, 2004). The manager laughed to himself "when he pointed out that slowly the CoE is getting bigger in number, maybe soon the whole community (in Canatuan) is already a member of the CoE" (Fieldnotes, December 11, 2004).

The plant manager shared that he used to work for Marcopper in Marinduque Island. It was something from which he could draw bearings and reflection. Marcopper did not have a tailings dam, he said. When he disclosed that, I asked him, "Did you lose your voice?" Without

³² Tebtebba is a word used by the indigenous Kankana-ey Igorot of Northern Philippines, which refers to "a process of collectively discussing issues and presenting diverse views with the aim of reaching agreements, common positions, and concerted actions" (www.tebtebba.org).

answering my question, he shared that he worked for Marcopper for 10 years and Inco Inc. in Indonesia for nine years. But he came back to the Philippines because he wanted to participate and help a little. “He became dissatisfied with his life because he realized it was not the kind of life he wants” (Fieldnotes, December 11, 2004). I suggested that he should get down from his ivory tower and try drinking “pangasi” (Subanon rice wine) with the Subanos. The plant manager also confided that he was “shocked” when he came to Canatuan. He had expected poverty but not the kind that was glaring at him there. The plant manager said he also grew up in poverty and worked his way through college and got out as fast as he could.

While I might have these friendly, self-disclosing anecdotes, other TVI executives viewed me as an “enemy from way back” of the company (Fieldnotes August 29, 2009) as I transitioned from being a participant observer to becoming an engaged participatory action researcher. This also means that I challenged myself with a question posed by another engaged scholar in Mindanao, “What are we fieldwork for?”, an allusion to a commonly voiced question “What are we in power for?” (Alejo, 2003). I exercised my agency and used my positionality to ease bottlenecks preventing Indigenous leaders, who are in conflict with each other, in order to engage in open conversations about issues confronting their communities.

In exploring that question about my fieldwork, I went to the Philippines’ central business center in Makati City as a news reporter to observe and report on the Philippine Government’s hosting of an international conference on mining. The conference theme, “Open for Business: Mining and Minerals as new Drivers of Growth,” was itself a signal to the global mining industry that the Philippines had been making it easier for companies to do business in the country. At the conference I saw two different worlds: one ruled by persons in pinstripes and blazers; another by persons who are barefooted or in slippers and tattered clothes. The discourse

among the powerful dominated the media entities, with articles written by Manila-based business reporters ‘hogging’ the front pages of major news outlets. Their news reports “did not mention major policy changes announced during the conference, changes that cannot be quantified monetarily but whose impact on the communities is immense. These changes included the scrapping of the requirement for mining firms to obtain the free and prior informed consent (FPIC) of the Lumads (Indigenous communities) affected by the mining project, during the exploratory stage” (Sanz, 2005). In contrast, my reporting included not only the possible impact on Indigenous communities, but also how mining itself could sow unrest as warned by two rebel groups in Mindanao. My three-part special report was published only in the local dailies.

4.2.5 Going Beyond Participant Observation

In 2006, the Gukom sog Pito Kodolongan and the Apo Manglang Glupa Pusaka enlisted me as their research coordinator to conduct a community-based Human Rights Impact Assessment (HRIA). As a pioneering initiative, it involved the Subanon chieftains, the Apo Manglang Glupa Pusaka (an Indigenous organization based in Canatuan), peoples’ organizations located downstream of the mining project, and regional, national, and international non-government organizations (NGOs), including Canada’s now-defunct Montreal-based Rights and Democracy.³³

Admittedly, my engagements with the Gukom sog Pito Kodolongan, several peoples’ organizations in Siocon, and anti-mining NGOs are described as “partisan commitment” (Gledhill, 1994). This is a situation in which an ethnographer chooses to sympathize with factions or individual leaders and will later discover who the different actors are and what they represent, which may or may not radically change her views. Ethnographers, in practice, usually closely identify with one side

³³ The HRIA is a pioneering assessment tool that was tested by a Philippine research consortium that includes Subanon organizations, downstream community organizations and NGOs.

over another, irrespective of their initial intentions to remain neutral (Gledhill, 1994). Such a situation becomes more complex and ambiguous when an ethnography is conducted at multiple sites, especially when those sites are highly politicized and violent. This dilemma represents the field conditions in which I found myself. The Siocon Municipality, and the whole Zamboanga del Norte and its neighboring provinces generally, are post-conflict areas. While open warfare had come to an end, post-conflict areas often remain tense for years or decades and can easily relapse into large-scale violence (Jenne and Verkoren, 2005, p. 1). In 2003, the Moro Islamic Liberation Front, a secessionist rebel group, sieged the Siocon Municipality, killing at least 25 people (D. Garcia, 2003). Two separate ambush incidents also occurred on the road from TVI's Canatuan mines to Siocon Poblacion. TVI employees and Subanos were killed in both incidents. Earlier, in 1995, the extremist Abu Sayyaf group and "lost commands" raided the neighboring town of Ipil in Zamboanga del Sur (Gloria, 2002), only about a two-hours' ride from Canatuan. "Lost commands" roam the mountains of Siocon and its neighbouring municipalities offering their services to anyone, such as small-scale miners, who pay up to Php 60,000 to stage an ambush for them (Fieldnotes, 30 March 20).³⁴

These conditions so much affected my study that I had to abandon the field. At that time, "if you are not with us, you are against us" lines were drawn. Hence pro-mining Subanos were hostile to me in my fieldwork. Those who were against mining were on the other side of the mountain and were equally hostile to me. They questioned my presence, judging that I was writing for the mining company, and thus, spying on them and their protest actions. It was the non-government organizations and Catholic Church workers who clarified my positionality, at least to the anti-mining group that welcomed me. Ideally, I would have wanted to remain neutral. But the field conditions in which I found myself impelled me to make a commitment in favour of those whose human rights

³⁴ These "lost commands" also engage in kidnappings. They would abduct even lowly priests, NGO workers, and teachers for a small ransom amount of Php 5,000.00 or at least about CA\$ 120 (Fieldnotes, 2006).

were under attack. On one occasion when I was conducting a Human Rights Impact Assessment, I had to make a call to TVI's VP for Community Relations because locals who were ushering and hosting NGO activists were detained at checkpoint (Fieldnotes, June 2006).

I also left the field because of the intimidating conduct of TVI's security group. It was headed by a former military colonel known to target human rights activists during the dark years of martial law (Field notes, 18 April 2004). I was also cognizant of the mining company's track record of human rights abuses.³⁵ When I began my fieldwork in 2004, the mining site in Canatuan was like a garrison. SCAA/military checkpoints monitored each person's passage into the mineral production sharing agreement area.³⁶ The company had a list of persons who were "blacklisted" for their anti-TV I stance, preventing them from passing through checkpoints. These blacklisted persons were mostly small-scale miners who had rejected company attempts to negotiate with them. Known anti-mining/anti-TV I Subanos, particularly those believed to be billeting NGO workers/activists in their homes or participating in anti-mining gatherings, were "interrogated" and/or temporarily detained at checkpoints. Sometimes when they brought in provisions from neighboring towns, they were forced to unload them from the *habal-habal*. The SCAA guards would then order them to carry their heavy supplies on foot back to their homes within the TVI's mining area. Passing through the forest was often their only recourse for slipping passed the checkpoints to bring in their food provisions and other livelihood implements. Some small-scale miners would also smuggle mining supplies and paraphernalia. In 2004, after receiving several death threats, Canatuan's chieftain was forced to stay in Siocon Poblacion. He had attempted to "go back to Canatuan through Paduan but more

³⁵ Due to allegations of human rights abuses (harassments, food blockade, assaults, etc.), several fact-finding missions and investigations had already been conducted by the Government's Commission on Human Rights, the National Commission on Indigenous Peoples (2004), and by international and national NGOS since the 1990s. The company, nevertheless, was never held liable for human rights abuses.

³⁶ SCCA is the acronym for Special Civilian Armed Forces Geographical Unit Active Auxiliary (Philippines).

detachments were put up and now a composite SCAA/military composite group guards the premises” (Field notes, 12 July 2004). This meant a displaced political leadership and—as far as the state and the company’s discourse and representation—an illegitimate leadership.³⁷

Such field conditions led me to a peripatetic fieldwork in three field sites: Sitio Canatuan, which hosted the mining project; Siocon Poblacion, which was the municipality’s town center where the local government unit and peoples’ organizations were located and where the exiled chieftain was staying; and Zamboanga City, where the regional office of Mines and Geosciences Bureau was located and where Noel Lima, the Gulang Gukom of the Pito Kodolongan was holding office. The Gulang Gukom is the living repository of the Siocon Subanon history, customary laws, and knowledge. He is also highly respected not only by fellow Subanos, but also by non-government organizations and somewhat later by the company. To understand the various impacts of mining on the environment, culture, and way of life of the host communities and the indirectly-affected communities, I went to several mining sites in various stages of mining: (1) small-scale mining in Diwalwal, exploration and development, and closure on the island of Mindanao and (2) across the country to Benguet, Marinduque where the infamous Marcopper mines tailing collapsed. I interviewed local informants, who included government officials, locals, and Indigenous leaders, about the impacts of mining at their respective sites. There I realized that, while on paper, the mine cycle appears to have a definite characterization and delineation at each stage, on the ground, however, the mining cycle is fluid and mining stages overlap. While land tenure is still being claimed with applications and permits being processed, at the same time mineral construction and development are already taking place. In short, once a mining project is given a permit to explore, the mining company will most likely proceed to extraction while it is still waiting for the government’s

³⁷ See Mateo’s (2008) letter to the United Nations Committee of the Elimination of Racial Discrimination. Also Ponciano Agbadan (2003), Provincial Officer of the National Commission on Indigenous Peoples.

approval to extract minerals. The company's social development and management plan, required at the time of the permit, is also only likely to be designed and implemented after a junior mining company has begun to earn revenues (Thomson and Joyce, 2006).

As Marcus (1995) suggested, I continually renegotiate my identity and shifted my personal positions throughout the study. In the course of my fieldwork, I found myself in a number of roles: a graduate student, a journalist at one site, a human rights advocate, a fish trader in another area, a development worker at another site. I was politically committed at the start of my research. But I was an ethnographer throughout as I moved from one site to another. What binds all these identities and disjointed spaces in which I moved was my "circumstantial activism" (Marcus, 1994; E. Martin, 1994). I tapped into networks and resources in support of the Gukom sog Pito Kodolongan, the AMGP Subanos and the communities I encountered in the field. However, my gender limited the research process since most of my informants were male traditional leaders. Social and cultural codes limited my research, as did the occurrence of events in which only males with certain social positions could participate. Thus, I cannot claim to be as fully knowledgeable as I would have wished about the Siocon Subanos and mining in Canatuan.

My fieldwork indeed was a social intervention first before it became a textual intervention (Alejo, 2003). There were consequences that resulted by being in the "swamps" and in the highlands of Mindanao. Doing fieldwork in Mindanao, with its history of conflict and socio-economic injustice, required me as an ethnographer to be a fieldworker as well. This meant playing different roles of mediator, documentor, and researcher, including those that are not often associated with professional practice (Alejo, 2003, p. 247). As I exercised my own agency as a social researcher, aware of my social capital, subjectivities, and value orientation for social justice, I was also cognizant that, in doing extending fieldworks, "[W]e cannot delude ourselves into believing that our presence leaves no trace, no impact on those whose lives we dare intrude" (Schepper-Hughes, 1992, p. 25).

4.3 Vignette 3 - Fielding (2004): The Field in Siocon

4.3.1 Siocon Poblacion Past Midnight

It was past midnight of April 1, 2004. Instead of heading straight to the house of the principal of Siocon Municipality's elementary school, where I was billeted, three of my new-found friends, including the assistant parish priest and I made a detour and walked down Siocon poblacion's main road. Our conversation when we were leaving the parish rectory where we had a simple dinner of dried fish, vegetables and rice was nothing in particular. We were mindful to speak softly and walk quietly as we can so as not to disturb the neighborhood.

As we neared Siocon's police station, Fr. Manuel acknowledged someone up on an outpost saying, "Maayong gabii, sir (Good evening, sir)."

"Maayong gabii sab nimo, Padre (Good evening to you, too, Father)."

I looked up, but I could not see much in the darkness.

"Labay lang mi. Ihatud lang namo ning isa (we are just passing through to take this one home – referring to me)," Fr. Manuel informed as we walked past the police station towards the municipality's government offices.

We walked in silence for the most part along Siocon's main street, cognizant of the fact that everyone was asleep. While the whole stretch of the road was mostly dimly lit, I felt that it was also safe because there were four of us. When we walked past the junction of Siocon road towards the road to Sta. Maria, we simply turned around. In silent agreement we headed back to where we came from since the principal's house where I was staying was only two blocks away from the parish rectory.

Fr. Manuel then started speaking. “That’s where I was stopped to inquire why my two companions who were on their respective motorcycles were held up by heavily armed men,” he said. “We were just coming from celebrating Siocon’s town fiesta last year on May 2, also around this time that we were going home,” Fr. Manuel continued in Bisaya. “I stopped my motorcycle and inquired from the men in military uniform what was going on. Up close I understood that they were Moro rebels because of their shabby uniforms and rugged looks. They had a rocket propelled grenade launcher. The next thing I knew we were instructed to go near the billiard hall by a *sari-sari* (a small family store) over there where I was hogtied with other hostages. My left forearm got burned when spent bullet cartridges fell on my back when one of the rebels fired at one of the hostages who was able to escape. The young teen-ager who was the chief of police’s daughter was also taken and hogtied. Until now, she is still in shock,” Fr. Manuel’s voice trailed off as he led our way down Siocon Poblacion’s main road

As I tried to process what he just said and wondered what happened to this poblacion, Fr. Manuel stopped in front of an ancestral house distinct with its wooden carvings and *lampirong* (capiz oyster shell) windows. It was reminiscent of the Spanish era when capiz shells were used as alternative to glass windows.

“This was where the four young seminarians who were on board a motorcycle were strafed. They were ahead of us in going back to the rectory. Two of them died immediately. One was severely wounded in the leg.” Fr. Manuel recalled. He then shifted his gaze towards the canal. “The other one was able to run and jumped into the canal. He pretended to be dead and slowly crawled out when it was safe for him to go.”

As we went past the municipality hall again, Fr. Manuel looked at the police station. “Six out of 10 policemen on duty were also killed that night when the Moro Islamic Liberation Front sieged the poblacion,” he said.

In total, there were 25 people who died during the siege.

The following day all I could do was cry. I stayed in my room as I processed the violence and armed conflicts that the people of Siocon and the rest of Mindanao have experienced and witnessed. One can never fathom the many consequences of historical injustice and violence on my generation and those before me.

4.3.2 The Priest who Plays the Harp

Earlier last night before my friends took me home past midnight, I was talking to Fr. La-an. I can sense his melancholia since I met him the other day in the parish rectory while I was trying to play “Cavatina”. I just found the music sheet of this haunting theme song from the movie “Deer Hunter”, under the piano bench after I got tired of writing down notes in my field journal and spending many days and nights at the Pisawak picket line.

“Ay maayo kay kabalo ka magbasa ug nota (Ay, it is good that you know how to read notes).” I stopped and turned around to see a medium-built man grimly standing behind me.

“Ay, di man ko maayo motugtog (I’m not really good in playing the piano),” I replied and turned my gaze to him and away from the “Cavatina” music sheet. “You?” I asked.

“Widow man ko (I play oido),” he replied.

I introduced myself and asked for his name. He replied, “Edmund.”

As he offered his hand and smiled, I saw that he was chewing betel nut since his teeth seems to be covered with blood that was already mingled with spit. “Ikaw si Fr. La-an! Ikaw

tung pari nga naga-mama (You're Fr. La-an! You're the priest who chews betel)," I exclaimed. Betel chew is a nut rolled in betel leaf that is dabbed with lime, water or oil, which produces blood-red spittle. Based on my fieldwork, it is common for men in Indigenous and Muslim communities to chew betel and share it with friends especially during social gatherings.

Fr. La-an simply shrugged his shoulders and sat beside me. Without saying anything, he started playing "Chopsticks" on the lower keys, and I joined by playing on the higher keys. We then played Blue moon and another goofy song that can be played with four hands. I looked at my watch and motioned that I should already be going. He gestured that I should stay and continued playing. His style was rough, but he has an ear and love for music.

"Come and have supper with us here," Fr. La-an quickly said when he stopped playing. I learned from his assistant priest and housekeeper that he has rescued and refurbished a worn-out harp from a dilapidated house in his hometown.

"Whose harp was it?" I interjected, knowing fully well that Siocon and the rest of Zamboanga del Norte are among the poorest areas in Mindanao at that time. They had no idea or how it got there.

I also learned from the parish secretary and housekeeper that Fr. La-an has no training in music and would simply listen to a song, and would play it on the piano. It was a wonder for them how he was able to remake the harp and play it too. His roommates say that he usually keeps to himself. He is always quiet and prefers his own company or visiting the small *parokyas* in Siocon's hinterlands. So, supper was very muted compared to the animated conversations I had on previous nights with his gregarious assistant parish priest and other visitors.

After dinner, Fr. La-an invited me to go up to the second floor. The fluorescent light on the living room was broken, but there was a candle burning. At the corner by the window stood the harp that his roommates were telling me about. He went straight for it and started strumming “Bayan ko,” a song which is a popular anti-martial law, anti-Marcos dictatorship song. When he finished playing the song, he remained quiet that I looked up and wondered what was going on. He spent several more minutes in silence.

“I cannot sleep most of the time.” As he started talking, he pointed at a hole in the window glass by the stairs near where I was sitting. “Gi-baril na sya sa sniper, (a sniper shot at that window).”

Then he started strumming the harp again. I just sat there in the dark and watched him caress the harp. He then played, “Dahil sa iyo (Because of you),” a Filipino love song which is a favourite of Imelda Marcos; “Memory” from the Broadway musical Cats; and “Moon River” from the movie Breakfast of Tiffany starring Audrey Hepburn and George Peppard.

In between songs, Fr. La-an speaks. Though always with long silences. It seems that with every string he plucks, he cries out his woes and grief. He recalls the Siocon siege when the rebels passed through the convent. “I peed in my pants while I was on my knees cowering in fear as the gunfight between the MILF rebel forces and the military went on outside”, he continued in the vernacular. “Those stairs were full of urine. We peed in our pants every time we heard an exchange of gunfire outside.” It waged on for 12 hours (Fieldnotes, April 2, 2004).

4.3.3 The Pisawak Picket Line

I went back to the picket line after spending a day away from everything to process my emotions. Emotional stamina is as equally demanding as physical and intellectual fortitude when conducting ethnographic fieldwork in a politicized and violent environment.

I arrived here at Barangay Pisawak, Siocon, Zamboanga del Norte just two days after the strafing incident that injured four people including a Subano traditional leader. There was only one blue tent then, giving shade to about a handful of women dressed in white, praying in front of a bust of Sto. Nino.

Save Paraiso!,” the streamers and placards scream. Why not Save Mt. Canatuan? I took note of the discourse as I listened to a cacophony of voices relating how they rolled down beside the road and scampered for cover when TVI Resource Development Philippines’ security personnel fired at them..

... I continue to weave in and out of the crowd of protesters, listening for Subano voices. Where are they? I hear those of the Tausug and Maguindanao, who are easily detected by their kumbong or keffiyeh.³⁸

“Our children are afflicted with skin diseases and silt is fast accumulating in Brgy. Bucana and in other coastal areas,” complains Hadji Sharifa Kumala Mujala, 46, who represents the Bangsamoro people in Siocon.

“You should come here in June. Three days of rain and I would already panic,” Merle Paras, Litabon Elementary School principal, discloses that her house would be flooded up to waist level.

“Siocon is already declared an environmentally-critical area by the Department of Environment and Natural Resources (DENR),” Mayor Cesar Soriano explains. He says the two rivers Litoban and Siocon straddle the poblacion, which would overflow during rainy season. “Sometimes we had to use motor boats to ply the streets of Siocon.”

Then I noticed a group of men sitting with their chins almost resting on their knees beside the road. They were talking among themselves but I couldn’t make out what they were talking except for the word “bamba” (Subanon for uncle). I further inched my way to the group. But the leader of the Save the Siocon Watershed Paradise Movement (SSWPM) began to speak with a megaphone in hand.

“Save our watershed. Save Siocon,” he cried as he detailed the effects of mining to their farmlands, fishponds and coastal areas. “We don’t want TVI to mine Mt. Canatuan.” Clearly, the environmental discourse, which is inundated with moral arguments, dominates over equally important and crucial issues such as respecting the Certificate of Ancestral Domain Title and Indigenous

³⁸ In my 2004 article entitled, “Voices from the Pisawak picket line”, I used the word turban. The keffiyeh is a square black and white or white and red checkered cloths worn as a scarf by the Muslim men in the picket line.

peoples' rights to govern in their own land. But it is what lowland Sioconians unanimously resonate with.

“All we want is simply to protect Siocon from the havoc of mining,” emphasizes Fr. Mamert Dolera, who also protested against David Consunji (DACON) Logging Inc.’s operations last February, because “through the Integrated Forestry Management Agreement our primary growth forests are being cut-off which also causes soil erosion and other environmental destruction.” Currently, DACON has ceased its operations in Siocon and has transferred to Siraway.

“This is the last frontier in Zamboanga del Norte,” asserts re electionist Mayor Soriano, who has already received a number of political harassments and threats from the national and local level because of his stance in protecting Siocon’s environment. “I am for responsible mining but not in Siocon,” he clarifies, pointing out that the topographical and geographical lay-out of this second-grade municipality cannot accommodate TVI’s mining operations. (Sanz, 2004a)

In more than two weeks of protest action, the blue tent that the protesters had set up in the beginning was merely being used as fly to shield the nipa hut from the piercing rays of a hot afternoon sun. The protesters had cut bamboo poles, gathered palm foliage and made it into nipa thatching to build a hut that can accommodate at least 50 people, who took turns day in and day out guarding the ball mill and other mining equipment that they blocked from proceeding to Canatuan. Also, “three more tents in colorful stripes have sprouted behind it, and neat white billboards advice approaching vehicles to slow down, rally going on” (Sanz, 2004a). Barangay Pisawak had become

...virtually a cultural melting pot. The Tausug, Iranun and Maguindanao, who mainly reside in Siocon’s coastal areas, now sleep side by side with the migrant Christian settlers considering that distrust and animosity were once again revived when the Moro Islamic Liberation Front (MILF) attacked Siocon last May 4, 2003.

Hadji relates that upon learning that there is going to be a mass protest action, she immediately closed her sari-sari store and went to the area. “Never mind my biases against the Christians, I said to myself,” she confides that this is her first time to join an activity like this. Irrigators,

educators, rice millers, fish pond operators, and students also include the motley crowd of protesters.

As a mere observer with scholastic pursuits, I watch and listen closely. “If it were not for this picketing, we will not get to know each other,” Rosendo Canlas, president of the Siocon Fish Farmers Association, who reported of lesser harvest yield while fingerlings die-off easily, says. “We would not also see how the Tausug love to dance,” Elsie Galos quips as we watch their shoulders and hands gracefully move to the tune of Dayang-Dayang and Bayani’s “Otso-Otso” under the glow of the crescent moon.

Where are the Subano of Mt. Canatuan? I asked Timuay Alog when I saw him the other weekend. “They were here when the picket began,” he replied. “But they need to go home immediately. Basi i-bulldoze na ang among mga balay ” (our houses might be bulldozed), adds Oncino. (Sanz, 2004a)

I took this as a cue to prepare for my fieldwork in Canatuan. Who knows how long the protest was going to last.

Siocon’s 26 barangays, seven of which are populated by the Bangsamoro, the Catholic Church’s ecclesiastical communities and peoples organizations like the Siocon Farmers and Fish Farmers Association still faithfully observe their shifting schedules on a 12-hour basis lugging with them their farm or backyard produce such as tomatoes, bitter gourds, squash, firewood, rice, and bangus among others.

...As I write these notes on my field journal, I chanced to look up in the sky. An eagle soars high, circling and gliding up above the rice fields of Siocon. I couldn’t believe it. I’m used to seeing them caged in the Philippine Eagle Center in Malagos, Davao City. I never saw them fly high.

Is that a Philippine monkey-eating eagle? I asked one of the protesters. He just looked at me, possibly wondering why I had to ask.

I looked at the eagle until it swooped down and disappeared into the mountain ranges near Pisawak. The eagle could be in Mt. Canatuan.... (It) has truths to tell as well. (Sanz, 2004a).

4.3.4 A Murder in Siocon

When I set out for Mt. Canatuan, I tried to approach it with an open mind. I was aware of my biases especially that I had spent some time in the picket line and already charted the Subanos’ genealogy. So, I had to rely on my curiosity to remain “objective” in seeking answers as to who

are the real Indigenous traditional leaders. But my main challenge was, what then is the gauge in telling who is claiming the truth?

I resorted to Christie's (1909) ethnography where he quoted excerpts of a priest named Fr. Franciso Combes' (1667) who reported an incident involving the Siocon Subanos in the *History of Mindanao and Sulu*.³⁹ It was about an assassination of his Jesuit companion in the 1700s. I decided to ask the Subanos about this incident and compared it with Combes' (1667). The difference between the Jesuit and the Subanos' narrative was in the details. Fr. Combes wrote about the martyrdom of Fr. Juan del Campo but the Subanos were nameless. The Subanos, on the other hand, cared less about the priest and his name. Instead, they extolled an ancestor, who in their eyes was a hero.

According to Combes (1667), *Siukun* (now Siocon) was the most important of all Subanon villages along the portion of the coast between Zamboanga and Kipit in 17th Century Zamboanga Peninsula. This was because "in this village practically all were converted" (Combes, 1667, pp. 136-138 as cited in Christie, 1909, p. 21).⁴⁰ Fr. Francisco Combes SJ, one of the first Jesuit missionaries assigned in the Zamboanga station, had written that conversion of the Subanon was conducted mainly from "two centers, Dapitan and Zamboanga, the priests with headquarters at Dapitan taking charge of the coast as far as Kipit, where the field of the Zamboanga priests began" (Christie 1909: 19). However, it was "not without opposition on the part of the Subanuns" that the conversion work was carried on.

³⁹ Published in Madrid in 1667 as cited in Christie (1909).

⁴⁰ The term *Siukun* Fr. Francisco Combes' *History of Mindanao and Sulu*, Christie (1909) and Frake's (1955) respective ethnography.

Fr. Combes narrated that

These Indians had been the least cultivated, their hardness being defended not only by their indomitable and barbarous character but also by the wildness of their coasts, exposed as these were to the fury of all the winds, and without shelter or port for many leagues, save some dangerous bars.... This nation is undoubtedly one of those which, for their own good, stand in need of a certain amount of violence.... And so the priest availed himself of all his force of spirit, using a thousand schemes to overcome their intractable character. One of his schemes was to take away boys from their villages, choosing those of the principal families, in order that, through instruction and the sight and contact with Spaniards and persons of other nations they might lay aside their natural wildness and might reduce the parents to greater humanity.... This plan gave good results, for when the Subanos were instructed, they showed more than mediocre capacity, and showed what there was in their nation, if only it allowed itself to be instructed. Therefore he attempted to carry out the scheme in Siocon, which as the most remote village, preserved its natural refractories. He tried to obtain one, and the parents resisted as if he were asking for the boy in order to take him to the beheading block. But this same resistance gave the priest a greater desire to take him, thinking that by his means he could break the spell of the barbarous and jealous suspicion of the parents. (Combes, 1650 as cited in Christie, 1909)

Fr. Combes recounted how Fr. Del Campo was killed on January 25, 1650 in the hands of the Subanun of Siukun:

“Returning to Siocon, and starting in to execute his plan of bringing the people down to the beach for instruction, he came down with them, taking down on rafts that portion of the timber of the church which could be used, and after clearing the site, he proceeded to stretch out cords to mark the outlines of the building. He undertook this labor with his own hands, for such humble buildings have no master workman but the priest, and the Pampangas and Spaniards of the escort assisted him, as being those who best understood his language, through this courtesy, which was not part of their proper office, failing in their obligation of caring for and defending him. The Subanos, who had intended to carry out their impious purpose at a time when they should be in larger numbers, took courage when they saw so good an opportunity, and made their decision, although not twenty-two in number. The servant whom the priest had taken by violence for his good, and whom, in order to please the parents, he had brought with him well clothed and treated, aided in preparing the treacherous act, by secretly

taking away the arms of the other servants, even the knife of the cook.... Seeing our men unarmed, the Subanos close in on them, almost man to man, and one gave the priest a spear-thrust. And he, feeling himself mortally wounded, withdrew to the boat. With barbarous fury they followed him and dealt him another blow when he was on the edge of the boat, so that he fell into the river. They also killed the Spaniard who formed part of the escort called Gregorio de Acosta, and five Pampangas, one native of Cagayan escaping badly wounded, down the coast. Two other servants were killed, one of whom was Andresillo, a Spaniard, one servant being spared on account of his being a Subano.” (Combes, 1650 as cited in Christie, 1909)

Timuoy Ben Alog and Gulang Gukom Noel Lima’s account focused on their Apo Monokon, who was the priest’s assassin. They confirmed that Apu Manglang had instructed their Apo Monokon to assassinate the priest in Siocon. Aside from taking the children, the Spaniards also punished the locales if they were not able to bring food and other farm produce. When asked about who the priest was, Timuoy Lambo simply shrugged his shoulders and did not appear to be interested. Instead, he narrated the attributes of Apo Monokon, whom he said was a great courageous warrior that Apu Manglang had trusted especially in terms of defending Siocon and their people. To the Subanos, Monokon was a hero and brave warrior of their tribe. After the assassination of the Jesuit priest and other Spanish soldiers, Monokon was instructed to leave Siocon because of the anticipated reprisals from the Spaniards, according to Timuoy Lambo. Most likely he also settled down in the present-day Municipality of Manukan, which is between the Municipalities of Jose Dalman and Katipunan.

The Gulang Gukom also explained that the Subanos have a strong conviction to preserve their tribe. When the Spanish soldiers came, the priests also went with them, Gulang Gukom Noel Lima said. What they did was to take the young children as early as four years old from their parents and educate them. It was the priests who were in charge of teaching the children. That was the time of conversion, conversion of the tribe’s children to Christianity. In schools set

up by the Spaniards, they were forbidden to talk their own dialect. When they came home, they would not talk the Subanon dialect anymore. They would only speak Spanish. Timuoy Lambo explained that “they are (sic) indoctrinated by the priest not to talk their own dialect. The Subanon elders became apprehensive.” They felt that “sooner or later mawala na gyud ang tribu (the tribe will disappear)” (Field notes, June, 2004).

A few years later in 2006, Paring Bert, as Mindanawon’s founding executive director, went on fieldwork with me to Dipolog City to clarify with the Philippine proponents of the community-based human rights impact assessment. In a gentle voice, Timuoy Ben Alog informed him that he knew where the Jesuit priest was buried in Siocon. The Subanon’s narrative of Mononkon assassinating Paring Bert’s companion who served in the area in the 1700s was passed on from father-to-son chieftain.

So, when I set out to Canatuan, I asked the Indigenous Subanon leaders, who are supporting TVI’s mining project, about their history, ancestry, and relatedness. I found out that they were only able to name their ancestors up to the third ascendant. I also asked them about the history of the Subanos. They mentioned Apo Manglang, but they were unable to mention the descendants or degree of relatedness with the Gukom sog Pito Kodolongan and their history of diaspora. It was in using genealogy, the narratives about the assassination of the priest, and knowledge about the Subanons’ history of diaspora that I was able to tell who were the “real” Subanon Indigenous leaders in Canatuan.

4.4 Vignette 4 - Fielding (2005) – Abandoning Fieldwork

4.4.1 Field Notes, March 18, 2005

Room 554 – 3 days, 4 nights in Davao Doctors' Hospital

They still have not put a name on my pain. The surgical section has already ruled out the possibility of appendicitis or any intrusive surgical operations.

I dread 9 am for my trans-vaginal or trans-rectal sonography. The doctor told me that if the first one is too painful, they'll do the second one. Waaahhh! I also hope it is not endometriosis which is what my family med doctor suspects for it spells consequences to my future anthropological work.

I love going to far-flung communities where the paths are troubled, and the roads are rough.

I love riding on rickety buses which reek of chicken dung; and on all-terrain, all-purpose motorcycles which insert, wind, negotiate themselves in narrow, dangerous alleys or roads that are between a cliff and a steep mountain slope, or shallow and flooded rivers.

The obstetricians were asking me about my history of sexual relationship(s) and it was even in the plural. I just want to go home.

When Carol came inside the room and started talking about Mindanews, I immediately felt a reaction in my abdomen. There is discomfort that I feel inside telling me to cut-off. I also felt that my direction now is to write, write, and write some more. I have this image of me writing on my notebook about what I see, feel, sense and I am tranquil and serene.

My gut is beckoning me to write. I'm not sure what I am supposed to write. But I should write and delve inside myself. I need to sort out my things as soon as possible and prepare for it. I also do think that my writing is already long overdue. I must now write.

I guess my body's ailment this week is a rebellion against the choices I've made. It cannot stomach the path I'm taking again – organizing, advocating and doing other things against my soul's wishes (Field notes, March 18, 2005).

Early in February 2005, I was in Makati City in Luzon to cover the Philippines' first international conference on mining.

Inside the ballroom of the New World Renaissance Hotel on February 3, some 200 men in business suits from Australia, Canada, China, United States and Russia were unperturbed by announcements from officials of the Philippine government and the Chamber of Mines that a crowd of protesters was picketing outside the hotel.

In fact, the delegates would never have heard of the protest if the officials didn't mention it and explain it as proof of a "vibrant democracy." But even if they heard, not one of them appeared bothered.

Delegates at the lobby would not have known, too, that there was an opposition to their presence as the protesters, among them Igorots clad in G-string, held their picket along Pasay Road, the back of the hotel.

A day earlier, while the businessmen were busy introducing each other at the opening of the international mining conference dubbed "Open for Business: Mining and Minerals as New Drivers of Growth," men and women in casual attire gathered at the Pergola Grill in Kamuning, Quezon City, a number of them cursing the Supreme Court for dismissing with finality the motion for reconsideration filed by the La Bugal Bla-an Tribal Associations. (Sanz, 2005)

During the break-out session, I wandered around the exhibit area and bumped into the top honchos of TVI Pacific, including the owner himself. "This morning I met Clinton Jesse and Jordan Reed. Jordan teased me about my objectivity and research. But he noted that my article in

Newsbreak was penetrating and that it was quite fair for I've covered the two sides..." (Field notes, February 4, 2005, p. 183).

I was a bit confused as to which article he was referring until he mentioned Newsbreak where I wrote a special report entitled, "Collision of two worlds: The Subanon are caught in the birth pains of the Indigenous peoples' law" (Sanz, 2004b). The article's lead paragraph was actually from the perspective of a Special Civilian Action Auxiliary trainee who was seeking a job with TVI. He was describing his fears and his hesitations to possibly hurt another human being when he took part in seizing the ball mill from anti-mining protesters, who were picketing at the Barangay Pisawak which delayed TVI's commercial extraction of gold and silver for over a month already (Sanz, 2004b).

In that article, I also reported TVI's views of Subanos applying double standards in relation to their claim that Mount Canatuan is a sacred mountain. "If [the mountain] were sacred to them, why did they allow small-scale miners to dig holes in Canatuan and operate in the area?" (Sanz, 2007). I also described how two scales of mining had polarized the Subanon community in Canatuan with large-scale mining being viewed by pro-mining Subanos as legal and compliant with government requirements, and how the traditional Subanon leadership was contesting the legitimacy of new Subanon leaders who were elected in their association.

At that time, I saw the case of the Subanos in Canatuan in relation to mineral development as part of the birth pains of the Indigenous Peoples Rights Act (IPRA), whose constitutionality was questioned right after its promulgation in 1997.

Now that it is being enforced under the Arroyo administration, which aggressively awards CADTs to IP communities, two worlds are colliding. The law's implementation has heightened animosity between lowland settlers and Indigenous peoples. In Lison Valley, Zamboanga del Sur, the

settlers staged a protest action when the Subanon were awarded their CADT last March. The settlers perceive IPRA as a threat to their ownership of land. The Subanon, on the other hand, consider the law as their right—along with the opportunity to be able to govern themselves. Thus, this requires new ways of studying Indigenous communities long perceived as “backward people” and “uncivilized.” There is also a need to reconcile modern state laws with customary laws, or, if this is not possible, ensure that they don’t conflict with each other. (Sanz, 2004b)

During that brief conversation at the exhibit area in New World Renaissance Hotel, Jordan Reed also imparted that somebody told them that the right spelling and pronunciation of Subanon should be “Subanan”. Oh dear. The company has been in the area since 1994, and yet it remained ignorant about the five Subanon sub-linguistic groups in Zamboanga peninsula.

Two weeks later after the first international mining conference took place in Makati City in Luzon, I found myself flying to Manila and then riding on a bus to Batangas and taking the ferry boat to Marinduque Island. I was heading for the first national grassroots conference on mining with the theme, “Empowering communities to confront the threats on mining” (Field notes, February 24, 2005). The conference organizers had chosen to hold it in Marinduque (see Figure 4-3), which hosted Marcopper Mining Corporation owned by the Canadian mining company Placer Dome

(40%) and Philippine government (60%) (Plumlee et al., 2000) whose tailings dam had collapsed in 1996. It was estimated that between 1.5 and 3 million cubic meters of acidic tailings were

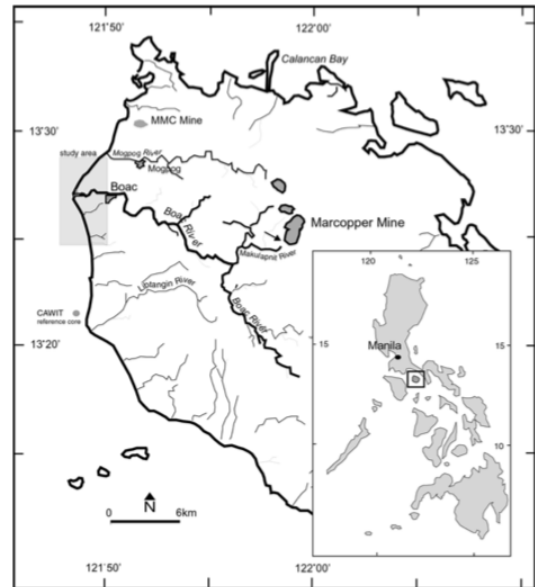


Figure 4-3. Map of Marinduque Island where Marcopper Mine Corporation was located.

Source: C. P. David (2002)

released in Boac River, later declared as “biologically dead” (Mining, Minerals and Sustainable Development, 2002, p. 208).

In the ferry boat, I happened to sit with Gemma, a woman leader from Barangay Anislagan, Municipality of Placer in Surigao del Norte. She, along with 10 others from her community, had been accused of grave coercion by Manila Mining Corporation. In 2000, they had staged a picket line along the provincial road to prevent the mining operations in their community. She said that while she was pregnant in 2002, she was harassed by the company. I asked her what prompted her to make a stand against mining. She told me that it was because she had observed in the other villages that their water was being depleted. Her village was the only barangay, she said, that still had a clear water source and verdant green forests (Field notes, February 26, 2005).

Gemma, who was about my age, told me that Manila Mining Corporation was operating in the Municipality of Placer, Surigao del Norte. The company had at least three cases of tailings spills in the area. In July 1987, an unknown quantity of cyanide spilled into the river that caused a fish kill. Two more accidents had also taken place in 1995 and 1997 respectively, with a total of at least 750,000 tons of cyanide tailings being released and burying 17 homes. The company had paid partial compensation for some of the damages and helped relocated affected families. (Stark, Li & Terasawa, 2006).

During the grassroots conference, we went on a field visit at the Marcopper Mining Corporation’s abandoned tailings dam. While hiking down the trail, I slipped as I navigated a creek, and my leg was soaked in the water which was already colored orange brown. A locale, who was coming down the slope advised me to wash my leg as soon as I can because it will be itchy. During the field trip, I learned that prior the Marcopper Mining Corporation’s tailings dam collapse in 1996, the company had been dumping mine tailings, which is the product of milling

and ore flotation (David, 2002) into Calancan Bay through the 1970s and 1980s, which damaged the local fishing industry (Stark, Li & Terasawa, 2006). There were also a series of dam failures. One was in 1982 when agricultural lands were inundated with mine tailings up to 1.5 meters high. Another was in 1993, when Marcopper's siltation dam collapsed that resulted to flooding the downstream communities. Two children died during the accident while livestock were also lost (Philippine Indigenous Peoples Links, 2003 as cited in Stark, Li & Terasawa, 2006).

The next day, I decided to leave the conference and went on coverage with a reporter from Bulatlat. The owner of a family-owned hotel in Mogpog, Marinduque, who also attended the conference, had offered to guide us around the island. We headed towards Sta. Cruz where we met with survivors of the Marcopper incident. One of those whom I interviewed was Wilson Manuba of Barangay Isidro, Sta. Cruz.

Wilson, whose legs up to his thighs had to be amputated, shared that as a child he used to accompany his father, who was a fisherman. It all started, he said, when he accidentally pricked his sole when he stepped on a shell while swimming at Calancan Bay. He was only seven years old then. The small prick developed to become "kalugo" (wart), he said. It grew bigger and bigger such that at 14 years old, it had to be removed through surgery. However, after three to five months, the wart came back again and began eating away at his leg. In 2002, he had to have half of his leg amputated. After a year, the skin growth came back again. Wilson said that he is not diabetic. When a kind benefactor had sponsored and paid for his medical needs, he went through a series of medical tests. These revealed that mercury was already in his blood stream due to the tailings wastes that were dumped into Calancan Bay (Field notes, February 27, 2005). A geological study made on the impact of a mine-tailings spill in marine sediments of the area had revealed that there were heavy metal concentrations of copper, manganese, lead and zinc,

which were traced to the 1996 mine-tailings (David, 2002). The same study also indicated that there was a much older history of contamination in the area, which can be attributed to a heightened activity in the area.

From there, our small group went up the mountain. There, our guide showed us a view of Calanacan bay. It was a postcard scene of blue seas and white sand. “Don’t be deceived with how it looks. It’s toxic,” he warned. “You’ll see the broken pipelines when we get there” (Field notes, February 27, 2005).

4.4.2 My gut talks back (Field notes, March 18, 2005, p. 352)

I’ll give time for my gut to talk back at me.

-- 00 --

Can’t do it. Too many distractions. Student nurses interviewing me, checking on my dextrose, handing me pills to take. If not, mama is here. Mindanews people are here. When people are around, the TV is also on.

-- 00 --

I suspect that the reason why my body chose to be sick at this time is because it wants to bring attention to my state of affairs.

- 1) It wants me to quiet down. So, I’ll be able to prioritize the things that I should focus on. It needed to stop me abruptly to seriously reflect and think about my own personal needs.
- 2) On the endometriosis thing, I really got scared to the point that I’ve made a mental checklist as to what I am going to do. I think I must make a conscious effort to find a boyfriend.
- 3) My body finds it revolting that I am back organizing and doing advocacy on mining. It’s demanding me to write and write more and be contented with that. It doesn’t mind me going to the communities. It is bothered with me doing unnecessary stressful things such as mining advocacy. Why would I not write my best instead? Re-channel

my energy towards producing excellent pieces of writing and reorienting my mind that writing can significantly contribute to the people's resistance against mineral liberalization (Field notes, March 18, 2005, p. 353-354).

4.4.3 Field Notes, March 19, 2005

This whole gamut of anti-mining advocacy which I have personally taken on is actually making me sick.

I feel the acids scorching my innards because I'm agitated with the way Mindanao and our nation are being offered to be raped and abused. I am revolted.

When I had my endoscopy today. The doctor said that I have hiatal hernia. My stomach is above my diaphragm and it is inserting itself into my esophagus. Talk about what's eating me up!

I am so angry about mining and the government and the big business which will displace communities, destroy our ecology, bring on water insecurity. So intense are my feelings about this, that my innards are taking the brunt of it all.

I have asked to be discharged from the hospital, despite the pain I still feel in my left side, just below my rib, and according to my doctors located in my small intestine.

I don't know if anybody or anything can soothe the rage I feel inside. But this rage is also destroying me. How can I transform this rage into an energy that will bring more life, creativity and positive results?

Patience is indeed a virtue. I am too easily fired up for achieving results and action that drain me quickly as well. My inner voice wants me to write, write, and write more. The thinking me finds writing lame and slow.... I have a lot of strategies and skills really – collaborating with

communities, conducting meetings, organizing round table discussions. Indeed, it is easier to talk about issues rather than be ruminating, chipping, hacking books and theories.

My study about business/corporate environment and Indigenous communities and its conflicts are no different from what I have studied before. But the scale? Scale would be the twist. Is large-scale demonic, while “small is beautiful”? Are large-scale/mega projects the only way to bring development? Do they also inevitably result in dramatic progress and development as opposed to small-scale efforts that yield miniscule and insignificant outcomes in the short-term, but who knows in the long term? What laws and agreements govern the two scales of mineral development - large-scale mining and the artisanal/small-scale mining? The law is known to expand power(s). It perpetuates a certain kind of knowledge and discourse. When law combines with power, certain patterns of social control, knowledge and surveillance of citizens are expanded. It includes or excludes and marginalizes individuals or groups, and their social interests that are not within the dominant elite’s interest. How do these laws on a certain scale of mineral development privilege the rich and the powerful, and subjugates those who are merely struggling to survive each day? How would two contextual actors namely, the foreign-owned mining corporation and the small-scale miners, interact during the preliminary stage of mining when actors are staking claims on a parcel of land, which is known to yield gold? Should I hypothesize that though there is a big difference on how they construct scale, there are unities that can be found between the two conflicting environments that could open a whole new perspective on how cultures should be studied and analyzed?

What about the Subanos’ notion of scales? They spoke of *gantangan* (measuring scale) in their justice system. What is their scale of and for development? My fieldwork in Midsalip and in Canatuan had demonstrated to me how they put a price on each wrongdoing and that it should

be paid through “bulos” (cloth) or an equivalent thereof. Scale is not only about measurements. It is in the everyday discourse and practice of assessing and evaluating situations, ideas, concepts – “of and for sense” to quote Geertz. Scale is dependent on the social and economic capital. How one perceives or measures up things are dependent on one’s social, economic and political background. Scale is also a tool of agency for resistance. It is also a tool for domination (Field notes, March 19, 2005). During the grassroots mining conference, I tried assessing the organizers’ concept of scale. Certainly, the NGOs have its notion of speed and scale of development as also do the mining companies, which are expressed in their counter arguments. For instance, the mining industries say, can we live without cellphones? Anti-mining groups counter, can we live without water? (Field notes, February 28, 2005). During a plenary session, I asked the Catholic Bishops who were present about the Catholic Bishop’s Conference of the Philippines (CBCP) stand on mining, citing the recent CBCP President’s interview that the church is divided. I also noted that the last CBCP’s pastoral letter on mining was issued in 1998. For all its position in protecting God’s creations, the CBCP was slow in taking stand on mineral liberalization, and meanwhile mining applications can be approved by the Philippine State in less than a year.

Another facet of scale that was also shown to me was during the Philippines’ international mining conference in Makati City in early February. This was when the Philippines’ Environment Secretary Michael Defensor announced that the free, prior and informed consent of the Lumads will no longer be required by mining firms during exploration, I was flabbergasted. He disclosed that the National Commission on Indigenous Peoples had announced during a cabinet meeting in December 2004 that “they will not anymore require the FPIC for the exploration because these are just holes that are being stuck on the ground to test

the minerals” (Sanz, 2005) The FPIC will no longer be required during exploration, but will only be important when the mining activities commence, Defensor said.

“But what Defensor is not saying is that the exploratory phase is no longer mineral testing for that is already proven, but an exploration on how the operation is going to be conducted and how it will cost them,” argued Joan Carling, chair of the Cordillera Peoples Alliance, an independent federation of progressive peoples organizations, most of which are grassroots-based organizations among Indigenous communities in the Cordillera Region, Philippines (Sanz, 2007). CPA was founded in 1984 by Indigenous leaders and activists who campaigned against the World Bank-funded Chico dams project and the commercial logging operations of the Cellophil Resources Corporation (Cordillera Peoples Alliance, 2004).

4.4.4 Abandoning Fieldwork

I went home still having pain in my stomach. It felt like something or someone is pounding and punching my abdomen. The doctor had prescribed medicines to take for my hernia, but the throbbing pain in my stomach continued for months. My condition prompted me to abandon my fieldwork plans among the Subanos. It was my reluctant answer when I was asked by a family friend who was concerned about my condition as to “what is more important to me, your studies or your life”?

Along with my mother’s religious friends, who are members of an Italian congregation, our family friend, who is of Indian nationality, came by to visit us at home. My mother then told him about my case and asked that he include me in his prayers. In his curiosity about what was going on with me, he started asking me questions about my research and fieldwork among the Subanos and other Indigenous communities.

He then asked me if there was any occasion that someone from the field had asked me to stay permanently in one of the communities in which I had been doing research. I replied that I had packed up in a hurry and left the area when a chieftain had told me that he wanted to marry me and have a son with me. That is causing you to be sick, he said, since the community wanted you to stay and you left. Now, they would rather have you dead. He then asked me what was more important – “your studies or your life?”

Spontaneously, I answered, “my studies” (Field notes, March 25, 2005). My mother and our family friend were shocked by my reply.

He again repeated his question to clarify my answer – “your studies or your life?”

The second time around, I replied, “my life”. So, there went my fieldwork plans.

My conversation with our family friend made me think of Charles Frake’s ethnography about murder, sickness and the supernatural. He wrote that “murder, however, is usually attempted by sorcery or poisoning rather than by direct physical violence” (Frake, 1955, p. 25). Frake (1955) noted that these practices were not widespread but are “resorted to only in cases of severe interpersonal stress” and that “only the most skilled religious specialist can perform sorcery” (p. 25). There was one case that he observed, Frake wrote (1955), wherein a medium attempted to get rid of a troublesome creditor in a distant community. He did not mention if the medium was successful in doing so but pointed out that there were no legal cases and no sanctions had been taken against a sorcerer or poisoner (Frake, 1955).

He also observed that the Subanon Sindangan considers it important to maintain proper relations with the supernatural by means of regular offerings. He wrote, “a serious or persistent illness is almost always attributed to a disturbance in one’s relationship to the supernatural and

can only be cured by restoring the proper relationship through special offerings to the deity responsible” (Frake, 1955, p. 29).

Suminguit (1989) had also mentioned about *pangapoy*, “a ritual to be carried out if an individual has a stomach ache believed to be caused by a serpent spirit” (p. 202). It is either performed as part of the *buklug*, the biggest and most complicated form of Subanon rituals and also very expensive, or celebrated alone by offering six chickens, 12 eggs, six sets of betel nut and six measures of native wine (Suminguit, 1989). With the help of the bolyan (shaman), who will

. . . chant some songs of incantation. While ringing his porcelain bowl, he dances around the offerings. When the chickens are butchered, the blood is smeared on the altar. The same thing is done when all the offerings are cooked. The ritual ends when the bal’yan catches the soul of the one suffering the stomach ache and puts it back in his head. The retrieval of the soul is sometimes shown by the bal’yan in a pantomime. He acts out his seeking of the spirit in the environment as well as his catching of the spirit in the realm of the dead. (Suminguit, 1989, p. 203).

I recalled that Timouy Ben Alog had belatedly warned me in 2004 about the people I was with in Mount Canatuan because they were known to poison other people using a black snake’s gall bladder (Field notes, April 20, 2004). I had been having issues with my stomach and getting weaker since then. But it was only a year later that the pain in my stomach had magnified so badly that I had to be confined to the hospital for a week. For days, the doctors were confounded with the pain I was experiencing. I was getting frustrated because they thought that it was psychosomatic. I was also getting annoyed because early on in my fieldwork I had chosen to focus more on the economic and socio-political dimensions of my studies about the Subanos. Like a boomerang, I was being whipped back with the Subanos’ belief system and behavior related to supernatural beings and forces, the spirit and the “not like us”.

4.5 Vignette 5 - Fielding (2006): Trekking Canatuan

4.5.1 A Political or Research Decision?

Seven months after reluctantly veering away from my growing involvement with the Subanos and mining, I was asked if I would be able to take on the tasks of a research coordinator in conducting a human rights impact assessment, a collaborative research with the Subanos and several NGOs. I declined the invitation for a number of reasons. First, I went through a discernment process of distinguishing what my life was made of apart from my studies. To accept the invitation would be like being an addict, who just went through a drug rehabilitation and once she was out would seek out that substance which she missed taking for so long. Second, I considered the risks involved in conducting a human rights impact assessment in an area by weighing on my fielding both as a writer for Mindanews and as a researcher in Siocon and Canatuan. I recalled that when “information that rebel elements around the area were on a lurk to stage another ambush against TVIRD and its personnel, everybody was on-guard and tensed” (Field notes, April 18, 2004), I abandoned the field.

I had experienced hostilities from pro-mining Subanos early on in my fieldwork. Those who were against mining were in the other side of the mountain and were equally suspicious of new faces. A picketer in the Pisawak picket line questioned my presence thinking that I was a paid hack writing for the mining company, and thus, spying on them. As a precaution, I and my Mindanews colleague, who was also covering the Pisawak picket line, made a courtesy call and introduced ourselves to the Philippine Army’s 42nd Infantry Battalion (42IB) in Barangay San Vincente in the neighboring Municipality of Sirawai, Zamboanga del Norte. In Canatuan and in

Siocon at that time, ideological lines were drawn between those for mining or against mining, for *development* or against it, those with us or against us. Admittedly, I was also intimidated by the conduct of TVI's security, headed by a former military officer during Marcos time, with a record for human rights violations, especially against those who were identified as activists. It does not help that he ordered an SCAA element to open fire at a group of protesters in Pisawak picket line where four people were injured. But, I must also say that the company has also employed a former New Peoples Army *amazona* (woman cadre fighter) (Field notes, Dec. 10, 2004). Mining somehow makes strange bedfellows with former political foes, I should say.

As a researcher, I was confronted with the politics of positionality and how people tended to be uneasy or wary in responding to queries about Indigenous rights. In 2004, Tebtebba commissioned me to review the free, prior and informed consent process (FPIC) in the case of the Subanos of Mount Canatuan. The Philippine-based organization was collaborating with the expert Iulia Antoanella Motoc, who was a member of the UN Working Group on Indigenous Populations and the UN Sub-Commission on the Promotion and Protection of Human Rights. The goal was to draft a legal commentary and guidelines on the FPIC in preparation for the UN Permanent Forum on Indigenous Issues' technical workshop scheduled for May 2005 that would discuss the convention on biological diversity in relation to access and benefit-sharing. The United Nations may command respect and influence in the international level, it is another thing at the local level. This international organization's mandate was to promote and protect human rights, a recent western liberal construction and a term which is often associated with leftists NGOs and communists in these parts of the world. Tebtebba, which promotes Indigenous rights and welfare, was perceived to be progressively left leaning, especially by the company and pro-mining Indigenous groups. Based on my fieldwork in other Subanon areas, the Philippine

military through its Southern Command has a strong influence among these communities. To counter the insurgency movement of both the Moro National Liberation Front and the communist-led New Peoples Army, the military had organized vigilante groups and also enjoined the Subanos and Christian settlers to join the paramilitary (cf. Suminguit, 1989). Thus, it was challenging to conduct the FPIC research when I have to inquire and speak about Indigenous rights, more so when I was asking the pro-mining Subanos about the processes. Jolito or Ting, their leader, “lacks the full appreciation and grasp of FPIC. He relies heavily on their lawyer for the interpretation and understanding of the law” (Field notes, December 11, 2004). This was also probably why he was hostile towards me since my queries revealed his inadequate knowledge about Indigenous rights and his genealogy.

Third, to conduct an assessment on TVI’s impact on the human rights of several stakeholders in Canatuan for NGOs and Subanos, who are known to be critical of the Philippine State’s mineral liberalization in areas where human rights are perceived to be linked with communists, would be like intentionally disturbing an already agitated hornet’s nest. In August 2004, the company filed a case against the leaders of the protest action for “illegal obstruction to permittee” as stipulated in section 107 of the Philippine Mining Act (DCMI, 2004). Warrants for arrest were issued to at least 33 individuals for participating in the Pisawak picket line.

In early December, I learned that the HRIA-Philippines Consortium was still looking for a research coordinator and I was asked about my availability. I, again, expressed my regrets and recommended another Mindanawon scholar who would be able to do it. In early March 2006, however, the invitation came up again. This time through Paring Bert, who was encouraging, if not, enjoining me to be the group’s research coordinator. I was greatly perplexed with the turn of events. I was mentally seeing a cup, which I had refused to drink twice already, and it was right

before me once again. This time, it was not going away and I would have to accept it. I was also told that I had to be on board as soon as possible since Rights and Democracy's (R&D) researcher was scheduled to arrive very soon. Without me saying much of a yes, I went with the flow and prayed on the fly. An NGO sent me a copy of the terms of reference, which I had forwarded to Mindanawon's board of directors, composed mostly of home-grown scholars of anthropology, history, literature, fine arts, sociology, to discuss and review the terms. Meanwhile, arrangements were also made for Paring Bert and me to go to Dipolog City to meet with some of the international, national and grassroots organizations, which were part of the Human Rights Impact Assessment - Philippines Consortium.

Prior to my departure, I had a meeting with two members of Mindanawon's board of directors. There I expressed my reservations and how I viewed the whole project. We also discussed the critical commentaries of another Mindanawon director, who raised the legal and anthropological issues on the methodology, assumptions, and our involvement in a highly politicized context. Mindanawon appraised R&D's methodology as "...nothing particularly novel or remarkable" that warranted calling it an HRIA methodology." What R&D presented was actually "standard phases of standard field research" with the "usual weaknesses," foremost of which was the selection of key informants. The other directors also agreed that "extended field work should be conducted to give as much time as possible in ensuring optimal selection of key informants and focus groups interview participants" (Mindanawon – confidential files, March 14, 2006). Interviews should also be conducted with sensitivity to consider the political dynamics over time. The company has been in the area for about 10 years. It is important to examine "how the opposition was initially framed and why, what issues were only later raised, why and by whom, and if there had been major or subtle shifts in

positions over time. In other words, we need to view the various issues involved diachronically” (Mindanawon – confidential files, March 14, 2006).

The other member of the board of directors with whom I met also emphasized that I must not take the “existing literature as authoritative and that when conducting interviews, I should be sensitive to the political dynamics over time” (Mindanawon – confidential files, March 14, 2006). This was also because

“it was assumed that there was already substantial research that was done. The current “data” that were there was most likely “written against someone, i.e., they represent an interest, and therefore, a bias”. These materials do not make for reliability, which was defined (in this) context as “sensitivity to nuance.” (Mindanawon – confidential files, March 14, 2006)

Despite his caveat, Mindanawon’s board member nevertheless outlined why we should be involved in this undertaking and in a cooperative research work. The institution, he pointed out, should seriously consider representing the interests of its members, and by extension, other social scientists or researchers in the country. He also viewed the research engagement with the HRIA- Philippines Consortium as an occasion to set standards for cooperation in research work. Regrettably, the contract or terms of reference that the NGO had sent me was “framed as a contractual labor agreement and not structured as a research partnership,” which was “distasteful and even insulting.” It shows the lack of collegial respect for fellow-activists. “We - engaged social scientists working on Mindanao issues – are not mercenaries or technicians, who don’t care about the cause or the problem. We have invested ourselves in this and other issues, at times at risk to ourselves” (Mindanawon, March 14, 2006).

Mindanawon envisioned a research-partnership that “would have allowed engaged social scientists to better address the question of mode of compensation, ownership and control, operational flexibility, etc.” With the terms of reference,

“...there is the problem of equity. You do the hard work they themselves cannot do. There is talk about how the bulk of the research work has mostly been done, but the truth, however, is that the core of the project is discovering whether or not FPIC was, in fact, secured. And that’s hard work. On the other hand, they end up owning the data and the report. This is classic Marx. You go to the field, take the risks, do the research work and the bulk of the writing. They own all your output, and indeed, pass themselves off as the researcher and writer. It is disappointing that our fellow-activists seem to be reproducing what I would call, if I were in a truly, truly foul and bloody-minded mood, exploitative relations within the ranks of activists.

I think if you do the bulk of the work for a project, that entitles you or Mindanawon, as the case may be, to share in the ownership of the project’s output. Anything else is outright exploitation. This is not a question of more or less compensation; it is a question of equity. There is a difference.

There is talk, as well, of giving due credit to the researchers. Going back to my analogy, does it matter to the proletariat that the capitalist mentions to his buyers his workers’ names? Besides, they are ethically obliged to give credit to all sources and acknowledge all assistance and support anyway, so this means little beyond another line in your CV. The point is, how can the (required) mention of your name compensate you for the appropriation of your output, which is re-presented to the world as their output? It implies a derogation of the value of your input, and a valorization of theirs (i.e., bossing you around and supplying the capital for the project, precisely like a capitalist).

There are only so many number of people actively doing something about the mining issue, and a smaller number of people whose form of ‘doing something’ is by writing about the issue. Of those who write, an even smaller number do so with the outlook and skills of an anthropologist or sociologist. If we sign on to the project as described, and allow them to retain ownership and control of the data generated, we are in effect, incapacitating two key people who can write about Canatuan with social science skills: You and Fr. A (Paring Bert). Until they are good and ready, you two cannot write anything more about Canatuan. It’s as if we aren’t that involved in the issue, such that we can peacefully and contentedly wait for them to decide for us that its now alright to write about Canatuan again.

This means that their claim of ownership over the data, and control of the release of the same, should be seriously reconsidered. Working with them should empower local researchers, not disable them.

All this is coming from my growing resentment of first-worlders coming in, picking our brains, using our connections, appropriating our work, in short, exploiting Philippine/Mindanao researchers or social scientists. However, let us be very diplomatic, take due consideration of the activist-orientation of ___ et al., and give them the benefit of the doubt. Let us offer them the opportunity to pioneer, with us, a collegial, equitable and empowering form of cooperative research.

I do not know if this is compatible with your interest in claiming a certain degree of independence or autonomy from them. I think that you do have more autonomy as a partner/co-owner than as an employee.” (Minnanawon – Confidential File, March 14, 2006).

On March 15, I flew to Dipolog City with these thoughts heavy in my heart. I was in a way consoled by the fact that Minnanawon could decide not to conduct the research since we had not yet signed any contract. This was also the reason Paring Bert and I were going to Dipolog so we could assess what we were getting into by meeting with several members of the HRIA-Philippines Consortium. While I was not surprised at those who were going to be there, I was delighted to again to see familiar faces and friends whom I have come to know in Siocon in 2004. The last time I had seen most of them were during the first grassroots conference on mining in Marinduque Island. In Dipolog City at the Catholic Diocesan Pastoral Center, I met Timouy Ben and his bogolal, the Gulang Gukom, Timouy Ferding of the Pigsalabukan Bansa Subanon, small-scale miners, members of the Save Siocon Watershed Paradise Movement, several NGO representatives of the HRIA-Philippines Consortium (Piplinks, LRC-KSK, DCMI, ZANPAAM) and R&D’s Canadian researcher.

While we were waiting for Paring Bert to arrive from Manila and other grassroots participants from Siocon and Zamboanga City, Tata of LRC-KSK gave me a briefing and orientation about who was running what. The HRIA Philippines Consortium had set up an

executive planning group that was composed of Timouy Ben and two other members (DCMI and ZAMPEN). I learned that several other researchers had already been considered and not accepted. This rejection was either Timouy Ben not wanting the researcher or the two other members bickering over each other's choice of research coordinator. While I was listening to Tata, it was not difficult for me to detect that the bickering was over their ideological disagreements as reaffirmists and rejectionists respectively which are factions that are aligned with organizations that tow and adhere to the national democracy ideology. These organizations began to splinter in the early 1990s, and each party was again angling for some control in this space. Geographically, I was conscious of the fact that Western Mindanao has been a rejectionist bailiwick following the split in the Communist Party of the Philippines/National Democratic Front/New Peoples Army in the early 1990s. However, the recent events in Siocon such as the Pisawak picket line in 2004, and the congressional hearing led by the Bayan Muna, a reaffirmist party group, which I had followed out of curiosity despite my decision to abandon the field, made it easy to figure out that the reaffirmist group were making efforts to organize the masses in these parts of Western Mindanao.

Tata also disclosed that Timuoy Ben was consistently suggesting my name as the one to take the leadership role. I perceived that they settled on me because I presented a viable option for all members of the management team, even to the two bickering individuals, since they are familiar with me and their ideological lines. They saw me as one of their own, but neither belonging to either the reaffirmist or rejectionist group. The Subanos, as represented by Timuoy Ben, have also placed their trust and confidence in me with the case studies and investigative reports I have done for them in the past. To most of the proponents, I somehow presented the right mixture of positionality. However, to me, this only indicated the diversity of interests coming from the different proponents. It would be a challenge later on, especially in relation to

my personal positionality as an independent, professional researcher and social scientist. Tata also informed me that TVI had organized its own HRIA team, which was also composed of rights activists, development workers, and freelance journalist.

That night I wondered whether I was making a research decision or a political decision to take on the responsibility of a research coordinator. To me the process was like going scuba diving after being away from the waters for a long time. I found myself slowly dropped into the water, floating on the surface for a bit to get my bearings and familiarize myself with the gear. My heart was racing. Because it has been sometime since I had gone scuba diving, I was nervous and excited at the same time. Then I slowly descended under the surface of the sea

The following day when all participants had arrived, including Paring Bert, we began the meeting with R&D's Canadian researcher introducing herself and the initiative. Piplinks gave the background and context of the research undertaking. One of the concerns raised was TVI's separate HRIA study. It was noted that the company report and the HRIA Philippines Consortium would contradict each other. But R&D clarified that the report they were going to publish would be from the consortium. The Subanos also expressed their frustrations stating that they had "complained and campaigned for the ouster of TVI since 1994 till today" and that they have also gone to Canada twice. The second time was in 2005 to meet with the Canadian Parliament (Field notes, March 16, 2006). The NGOs clarified that there were two parallel things going on. First was that R&D was coming up with guidelines that will be presented to the Canadian Parliament and the United Nations on how businesses should conduct their operations and respect human rights. Second was the campaign. Piplinks resonated with the Subanos' frustration since they had been working with them since 1997. Piplinsk also noted that Canada has a different context. While the Canadian Government is pro-mining, there were also "plenty

of people in the Parliament saying another thing. This is an advancement.... This (HRIA) is not everything we can do. But this is one thing that we can do” (Field notes, March 16, 2006). R&D also clarified in that meeting that the methodology was still in draft form. “We are not sure if it is going to work. We need to improve it and we need your help a lot. The methodology is based on 10 steps” (Field notes, March 16, 2006).

When the presenters (R&D and Piplinks) began to present the methodology, Paring Bert and I were stunned that none of the text in the methodology had been translated into the vernacular. Only a handful of the grassroots participants were able to follow the presentation. Further, the Subanos had not yet studied the document. This gap prompted Paring Bert to interrupt the process, saying “in producing knowledge, we are producing ignorance” (Field notes, March 16, 2006).

“Wala ta nagkasinabot. Iningles, uban di magkasinabot. Balikan nato...bisaya lang gud, dayon taparan na lang sila (referring to the Canadian and British presenters). Kinahanglan mapagawas ang Subanon kinaadman kay naa pud silay konsepto sa human rights” [We are not understanding each other. It is being presented in English. Let us start from the beginning, this time in Bisaya. We just have someone sit with them and translate Bisaya to English for them (referring to the Canadian R&D researcher and British NGO worker). It is important that the Subanon wisdom and knowledge are brought out because they too have their own concept of human rights], Paring Bert interjected (Field notes, March 16, 2006).

It was during this process of translating the methodology sentence by sentence that I finally decided to take on the responsibilities of the research coordinator. Later that night at past 9:50 in the evening, Paring Bert and I met with the members of the EPG, R&D Canadian researcher, and other key representatives of the HRIA- Philippines Consortium to clarify who

exactly we were talking to and our respective agenda, to level-off everyone's expectations regarding the HRIA, and to discuss the expected roles and responsibilities.

At the start of the meeting, Paring Bert pointed out that "we don't claim to be experienced. We're new. We believe in teamwork and cooperation....The consortium could have gotten somebody closer from Zamboanga City or Cagayan de Oro City" (Field notes, March 16, 2006). He pointed out that I was sensitive to the complications of the research. With regard the research coordinator, Mindanawon could go as individual or as an institution. "But any signing of contract should be explained to the board," (Field notes, March 16, 2006).

A member of the consortium clarified that "either Penny or Mindanawon is acceptable. Both are academic. There will be no publication before the report is given the sensitivity of the research" (Field notes, March 16, 2006). There I also found that the consortium perceived me or Mindanawon as "independent and not associated with anti-mining activists" which "carries a credibility for that study...."

However, when it comes to the publication of the report, a member of the consortium clarified that the consortium is taking on the responsibility and not Mindanawon, given that it may have legal controversy. "Clearly we want to have responsibility and content of what was to come out. But, we have to make sure that it is professionally credible...We want a technical and professional input" (Field notes, March 16, 2006)

We noted that there were also moral responsibilities involved in the assessment. This comes when we, as professional researchers, would have things that the consortium might not want. This led to a discussion about what kind of report the group would want, especially now that there so many agenda are at play. These include the academic research agenda of two graduate students (mine and R&D's Canadian researcher) and the campaign against TVI agenda

of members of the consortium. We clarified that the consortium will have a final version of the report and that the tasks of the research coordinator are: 1) to assist the consortium in generating and analyzing the materials, and 2) to produce drafts of various sections of the report.

Some members of the consortium were also assigned to write some parts of the report such as free, prior and informed consent, labor and workers issues. However, the group stressed that it was a matter of conducting an inventory of existing data and consolidating it, especially that research which DCMI and Piplinks have already done since 1997. With that Paring Bert interjected, “how did you do that when the people are still grappling with the methodology of the research?”

That said, Mindanawon would be consolidating the existing data, finding significant gaps in the research process, and producing data through key interviews. We would also do the principal writing, with final approval coming from the consortium. With that, the consortium would provide the existing data and share it with the research coordinator, provide the research team, provide contacts from the field, guide the coordinator, help in validation, and sign the final report.

We stayed one more day at Dipolog to finish the process of going through the methodology with all the participants. I returned to Davao City with mixed feelings about everything. But, my orientation to put politics first before personal had fully set in. Even though I still had a lot of questions, I also saw the concerns of the grassroots when I interacted with them during sessions and breaks. In one week, I needed to wrap up any loose ends in Davao and put all my affairs in order before fielding in various parts of the country.

I was also confronted with the deadline set by Rights and Democracy. Since time was running quickly for conducting fieldwork and focus group interviews and discussions, I was given only a week to prepare. To get the research on track, the proponents’ management team has prepared had organized the focus group interviews by setting scheduled dates and mobilizing

possible participants. So, there was a mixture of interested and disinterested parties who participated in the focus group interviews with some tensions that arose. I took note of the dissonance and followed up on the respondents who had opinions differing from the group.

After the FGD were done, I went back to conduct smaller interviews, this time using map-making and storytelling. I was aware that since this is HRIA instrument, I would have to be on guard with the universalist conception of rights, which may gloss over the complexity of local disputes. To grasp the complexity of disputes that revolve around Canatuan, it was important to see how various actors appreciated the place and what it constituted for them. The mining project was located in the “frontiers,” in the hinterlands of Zamboanga del Norte, and was being operated by Canadian-owned TVI Pacific, which have several subsidiaries located mainly in the Philippines and also in China. It is a grounded site of local-global articulations. Thus, there would be many voices that needed to be heard, interests and assertions to be located, and layers of relationships to be peeled away, beginning with the mine development area to the downstream.

Clearly Canatuan and Siocon do not exist in isolation, sealed off from the outside beyond (Moore, 1998). They are grounded sites of local-global articulation and interaction, and thus, both relational and locational. To attain a multi-perspectival reality on the place, and to envisage a good grasp of context, a scoping of the national and local contexts was conducted. This larger view also included understanding national policy frameworks on mining, sustainable development, human rights and the international instruments to which the Philippines was a signatory. More importantly, a scoping of stakeholders was conducted to acquire their different vantage points in understanding the context. It should be noted that the Philippine Mining Law has defined the meaning of the concept of stakeholders. This defining has proved to be

problematic because of its compartmentalized, site-based approach, limiting the parameters set out by the Philippines' EIA system which viewed impact only from a project-based perspective.

I also listened to the different social group's concept of human frailty, that is the condition of being weak and fragile. Indigenous peoples understand this concept based on their worldview, and ask what will make them weaker and more delicate. It is equally significant to know their strengths and sources of power as perceived by each respective group. Because the community is not homogenous, there are different narratives and perspectives, and possibly a spectrum of conflict, alliances, or unity in relation to mining. This underlines the importance of understanding horizontal relations and complexities. Indigenous peoples who, if we are not careful, would be lumped together as homogenous. But there are migrant IPs who are Subanos who had trooped to Canatuan from other traditional territories and municipalities. There were also bickerings within family members and relatives due to differing stance toward mining. Vicente Alog, an older brother of Timuoy Ben, had issued a thumb signed statement stating that the latter is not Canatuan's legitimate traditional leader. There was also the presence of migrant settlers. They used to be small-scale miners but in the process of their assertions and changes in their contexts such as not being able to mine, had become farmers to also negotiate for a better compensation deal during relocations.

There were existing data that I had made use of. But there were more data that were generated in the research process. When the report was published in May 2007, however, I was confronted with the fact that my contribution to the process was acknowledge with a "special thanks" and not as one of the authors.

4.5.2 Circumventing Checkpoints

I got a text from Tata and Cocoy that they had gone to Canatuan via Paduan so they would

not be passing through TVI's checkpoints. They took the same route that I had also taken over a week ago. As HRIA's research coordinator, I could actually just go through the checkpoints. TVI knows me and I wouldn't mind being kept waiting at the checkpoints all over again. Early in April when Caro, the French-Canadian Rights & Democracy researcher, and I headed to Canatuan to conduct the human rights impact assessment, a spiked nail derailed our trip for an hour. We were half-way between Pisawak and Canatuan when one of the tires exploded. We rented Bishop Manguiran's pick-up truck and Manong Fredo, his experienced driver, who was familiar with this road. He discretely showed me the spiked nail with a grim look on his face. I simply nodded and quietly asked him how fast can he change tires. Both of us knew that we were on the same spot where armed men ambushed a TVI truck in 2001, an incident in which several people were killed.

Caro was oblivious of this. While Manong Fredo, who was retiring soon, was putting on the spare tire as fast as he could, I uttered a prayer to the Blessed Virgin Mary and asked St. Michael the Archangel to protect us. I scanned the surrounding as I worked out in my mind what to do. There were two possibilities we could take if armed men would show up: 1) run as fast as we can and hide, 2) stay calm and do what they say.

When no armed men showed up, I began to think that this was a plan to derail and delay our work. One common sense I have from growing up in Davao was that spiked nails were also used to harass and discourage private and public transport drivers to go out of their houses during "welga ng bayan" (people's strike). My suspicion was further confirmed when we arrived at the Malusok checkpoint. TVI knew that we were coming, but we were held up outside for one hour before the SCAA allowed us to get in. Just as Foucault (1977) had warned in *Discipline and Punish*, it is about power, its perpetuation and the panopticon. So, I know the drills and the

performance that go with it. But I wanted to see and experience how it was for the small-scale miners and the Subanos when they had to climb through the forest to smuggle their supplies (sacks of rice, crude oil, mining implements, tin roofing). Based on my interviews with the Subanos and small-scale miners, the company's SCAA would fire their guns at them so they would be running as fast as they could or hiding in the forest until nighttime with the supplies they bought (Field notes, July 16, 2006).

Before I headed back to Canatuan, I had spent several days with Edgar Calida and Greg Canda at the latter's place near Malubal to follow through with what transpired during the small-scale miners' focus group discussion held in Ipil in Zamboanga de Sibugay. It was a very diverse group. Because each held strong opinions about TVI's mining and their own achievements, I had to track down the two men. Both were leaders of the small-scale miners. Nonong, who was my guide and research assistant, was also there, listening most of the time. I had learned from them that Timuoy Ben Alog's house was the first dwelling place they encountered when they initially went up to Canatuan. They used to harass him by shaking his nipa hut during the night. Edgar and Greg Canda recounted how they ended up in Canatuan when Zambowood, a logging company, laid them off in the early 1980s, and the sufferings they went through as small-scale miners.

As soon as I settled down, Edgar and Greg, who were in their mid-40s, led me to the most unlikely place to retrieve old documents that they have kept all these years – a pig pen by a Tilapia fishpond. The documents were all contained in two sacks that were almost fully covered by soot. As we rummaged inside the sacks, I could see that they had simply shoved the documents inside and that this was the first time that an outsider had seen them. As we sorted out the documents according to dates and relevance to the human rights impact assessment, Edgar

and Greg recalled an event. Sometimes they would just keep silent as they flicked through the pages pointing to a man's name or date (Field notes, May 3, 2006). They would sometimes smirk, smile, or be nonchalant about what was written on each paper.

One document showed that a food blockade had been ordered in Canatuan. They recalled that soon after that order, their tunnels had been bulldozed without prior notice while several of them were working inside. Luckily, everyone was able to scramble out.

“Walang iwanan” (No one is left behind), said Edgar, a Pangasineno, pausing as he lighted a cigarette. “We depended on each other inside and outside the tunnels,” he explained, Inside the tunnel we have a 50/50 chance of living because of the risks. “Sa gawas naa pud ang mga SCAA” (Outside the SCAAs would be there) as he and Greg recounted how SCAAs have targeted them. They also fired at his house while his wife was pregnant with his youngest child to threaten him.

“That boy”, Edgar continued with his eyes glistening in holding back tears in recalling what his family went through, especially his youngest son, “is very strong. He had to have heart surgery when he was very young.”

There were times that Greg and Edgar would also be laughing very hard in remembering the camaraderie they used to have with the other small-scale miners, even at a time which they described as “pagka-pait” (bitterly difficult). One anecdote was how as a group they also helped a young and very shy small-scale minner court a girl. They went to her parents' place and serenaded her the way it was done in the old-fashioned Filipino way of courtship until he was able to ask her hand in marriage, Greg said (Fieldnotes May 5, 2006).

I remembered asking Nonong when we were heading back to Canatuan why did he choose to go to Canatuan when there was another mining site in Sibutad, Zamboanga del Norte. He shared that it was so easy to find gold in Canatuan. “Mura siyag banig dili pareha sa Sibutad

nga pataas ang porma” (the gold vein in Canatuan is formed like a mat unlike in Sibutad which has a vertical formation), he explained, so that he would usually find gold right away. Nonong came to Canatuan as a young man and also got married there. How he wished that he had been very prudent in spending his money just like Edgar, who was able to save and buy at least eight hectares of land, Nonong said.

It was already 10:30 in the evening when Nonong and I reached Canatuan. I saw the relief in the faces of his wife and daughter when we arrived at their house, in which the only illumination was a small light from an improvised burner. They were expecting us since late in the afternoon. It was my first time to meet them.

It was very dark and we had no flashlight. Luckily, the moon graced us with half of its face, somehow aiding us in our journey. I could sense earlier that Nonong was already worried. He had not anticipated that we would still be trekking that late. He talked about people being taken by supernatural beasts. I asked Nonong if he knew someone who had vanished just like that. He replied, “no”. In their oral narratives, the Subanos have talked about hunters and travelers, who simply disappeared in Canatuan. It was most likely that he got this from the Subanos. Still, it made my heart skip a beat wondering what to do if this were true. I was immensely assured that such possibility was nearly impossible when we reached a narrow path bereft of tall trees and shrubs. Nonong then warned me rather belatedly again that we were about to navigate a path where high above a bulldozer was clearing and moving earth. TVI was extracting 24/7. So even at night time, the bulldozers and other mining equipment were operating.

“Dili nako makit-an ang mga bato nga gahulog” (I could not see the boulders coming down from the mountain), Nonong declared and we could be right in its path. He had to listen closely so when he said “dagan! (run!)”, I ran as fast as I could, not knowing if there

were boulders rolling down the mountain, or that I myself could also roll down below as I could barely see anything.

When we were still at Edgar's place, Nonong calculated that with my pace, it would take us at least five hours to walk up that side of the mountain. However, it took us almost 9 hours to reach Canatuan because we needed to stop several times. First, we stopped at Timouy Ben's in Paduan before we began our trek to Canatuan. Then we also chatted with Vicente Alog when we saw him outside his home as we were passing through. He told us that he had no idea that he signed a paper with his thumb attesting that his younger brother, Ben, is not a legitimate chieftain. "Ambot, na unsa to (I don't know what happened)," Vicente said as he recounted that he was also taken to Manila for a hearing.

Then, there was a heavy downpour forcing us to wait under a makeshift shed for an hour. The monsoon rains had already started. Nonong said that the path would be very slippery to walk on. I just nodded in agreement. I was more concerned about outlaws or armed groups that we might encounter on the way.

Then my hypoglycemia kicked in just an hour after we resumed hiking. Nonong was walking ahead of me and just as he was about to clamber up a wall, he looked back to give me a hand. But he saw me shaking and getting pale. I was dizzy and having cold sweat. I asked him to look for candies in my backpack. I was sure that somewhere in one or most of its inside pockets, my mother had snuck in candies and small crackers just before I left Davao last March. I discovered them when I was repacking my stuff when I stopped over at the Dipolog Pastoral Center in Dipolog City. Mama knows that I have a fast metabolism and that I also don't eat enough especially when I'm in the field. I'm just thankful for my mother's instincts while kicking myself for being so short-sighted.

How can I forget to buy those small Gelo packs or at least a pack of White Rabbits, a caramel candy which I don't like but would serve its purpose when my sugar level gets so low?! When I was in R.T. Lim to buy supplies, I only ensured that I had enough batteries, canned sardines, rice and instant noodles that I could share and leave with Nonong and his family. How can I also forget that I have hypoglycemia, even though I am not diabetic in the first place?

I felt embarrassed that Nonong had to carry my backpack and that he had to walk at my pace. I used to climb mountains in college and walking at a slower pace to accompany someone is also hard. I also did not have the locals common sense.

Nonong had belatedly warned me to be careful in drinking water from a natural source. "Hugaw na siya (That's contaminated)," telling me that there is another water source way up ahead and that it is clean. I spit out what I could and hoped that what I have gulped in would not poison me. I have already read TVI's report on their water testing. The water tests they had conducted showed that several of their test sites have high levels of arsenic and other trace elements that increase the water's pH level.

What if I got mercury in my body? I remember Timouy Ferding telling a group of us in Dipolog in 2004 that he knew of someone who drank mercury, but nothing happened to him, he said. But, Arthur, a British national who was also in that gathering, corrected him saying that mercury is poisonous. "Lord, I'm not yet ready to die, ok? You hear me? What if I get married and will have a kid, will s/he be deformed because I have mercury in my blood?" (Field notes, June 8, 2006)

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Those TVI checkpoints have extended way beyond its mineral production sharing agreement area and are nearly at the boundary of Guinobucan if I am not mistaken. When Tata and Cocoy were about to reach Timuay Tala's house at the "bakrod" (how locals pronounced

“back road”, which was created when ZamboWood was operating in the area), a group of TVI’s SCAA was already waiting and they were told that they were “under house arrest”. Under house arrest means they are limited to Timuay Tala’s premises and not to go inside the MPSA area, says Tata in her text message (Field notes, June 6, 2016).

Later, Tata texted that TVI’s Luli Micabalo relayed to the SCAA by radio that it is a free and democratic country. TVI should be informed first about their visit. Timuay Tala’s area is the first house you would see upon reaching Canatuan via Paduan. It is at the opposite side of the mountain from where the plant is located. There is also an on-going picket in Canatuan. About 30 small-scale miners are putting up a stand around Ate Manol’s place. Everything around her area has been bulldozed, Nonong said.

I visited Ate Manol and her husband at their place one night when I was in Canatuan. They took me to the open pit where the bulldozers were operating. They also pointed out to me those dancing lights.

“Wala mi kabalo kung unsa na,” (we don’t know what those lights are and where they come from), Ate Manol said. “It is not from the bulldozers,” she said pointing to me that it was far behind the equipment and there were no tractors operating in that part of the open pit. They have noticed that since the company started to bulldoze Canatuan, those lights would appear in the night. They also noted that the bulldozers would also break down.

“It’s probably because they work 24/7,” I said.

4.5.3 Field notes, June 24, 2006

2:46 A.M. (Very long day)

This is a very long day. Tata called me around 9:45 pm last night, urging me to call TVI as HRIA coordinator. I turned cold when I heard the news about Ate Manol (short for Manolita).

Based on my interviews with Ate Malou (short for Marilou) and Nonong this morning, a group of SCAA and SSAI members dismantled (Marilou and Lando) Gonzales' abode last night at around 9 pm.⁴¹ According to Nanong, who was among the 14, at least five men mauled Loloy, Manolita's husband. She in turn was carried like a pig, Nonong said in the vernacular.

They could not do anything since guns with open trigger were pointed to them, he said. "Each of us were surrounded by at least three men."

The Gonzales' have sustained wounds and bruises. Their belongings were also taken from them. "We want to go for a medical check-up." But Marilou and Nanong said they are sure that they will not be allowed to leave the area.

I've called up TVI's social commitment officer, immediately after the interview. He said he will verify it first with Canatuan. He called up again and explained briefly what had happened and told me that TVI will come up with a statement.

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In his email, the TVI executive wrote me "fresh from the oven". Attached is the company's statement with a lead paragraph:

"Officers and members of the Siocon Subanon Association, Inc. (SSAI) last night (June 22) dismantled the unoccupied shanty of a holdover small-scale miner (SSM) couple who had refused to leave the Ancestral Domain and Canatuan Project area of TVI Resource Development Philippines, Inc. (TVIRD) despite lengthy negotiations, safety concerns, and repeated requests for the couple to vacate the area that they were unlawfully occupying. SSAI – legal representative of the Subanon Indigenous people (IP) ancestral domain title holders in Canatuan, Siocon Zamboanga del Norte – had expressed concern for the safety of the couple, as the area where their shanty stood was right in the middle of the current mining operations (TVI Resource Development Inc, June 24, 2006)."

⁴¹ "Ate" is a Filipino kinship term that means older sister or when addressing an older relative or friend.

4.5.4 Field notes, Dec. 6, 2006

Today outside TVI's clubhouse, an SCAA approached Caro and me just as we were preparing to leave Canatuan for Dipolog. He asked if he could talk to us quickly. We obliged. He began by saying that he is an SCAA and that they might already lose their job. He also said, that he was one of the SCAA who mauled Ate Manol and her husband.

4.6 Vignette 6 - Fielding (2007): Researching Mining in Mindanao

When Rights and Democracy launched its Human Rights Impact Assessment for Foreign Investment Projects in Canada and the Philippines in May 2007, I was already in another field. Specifically, I was heading to Baguio City in Northern Philippines for a gathering of the Jesuits' Indigenous Peoples Apostolate representing Mindanawon Initiatives for Cultural Dialogue. In January that year, Mindanawon was commissioned to lead a collaborative research project on mining with the three Jesuit Universities in Mindanao. The objective was to help Ateneo de Davao University, Xavier University in Cagayan de Oro City, and Ateneo de Zamboanga in Zamboanga City to "strategically locate and identify its areas of engagement in the mining development in Mindanao" (Field notes, November 19, 2006). Our task was to come up with a multi-stakeholder analysis of mining in Mindanao. "As academic institutions, we are always searching for truth and mining is an issue worth pursuing for the truth" (Field notes, February 27, 2008).

When I submitted the final HRIA-Philippines report in December 2006 to Rights and Democracy (from here on "R&D"), I was glad that it was over. However, in early May 2007, I received excerpts of an email from R&D, which a member of the HRIA-Philippines' executive committee had forwarded to everyone who had anything to do with the impact assessment. The Montreal-based NGO was planning to launch the publication of the five countries that conducted the HRIA at the end of the month at the Press Gallery in Ottawa. They had set it for May 30 to

dovetail with a conference on Trade and Human Rights that Rights and Democracy had organized. I understood from the email that there were participants involved in issues around trade and investment, and R&D believed that it would be a “good opportunity for the launch” (Field notes, May 3, 2007). They were “hoping to have launches in the different countries and make that event international”... so as to “reach a broader audience and ensure a higher visibility to the case studies report” (Field notes, May 3, 2007).

The forwarded email also mentioned that R&D was going to “send them (TVI) an advance copy that week before the launch” (Field notes, May 3, 2007). Members of the Philippines HRIA consortium were displeased with R&D’s move to give TVI a week’s advance notice of the report. They not only questioned the obligation to give the company an advance notice of the published report, but the Philippines HRIA consortium also saw it as “giving them a chance to get their media messaging ready” (Field notes, May 3, 2007). From the exchanges, it seemed that they would not acquiesce “unless TVI reciprocates with giving us a week – (the same week) to look into their external research findings” (Field notes, May 3, 2007). The mining company had also conducted the HRIA, and the Philippines HRIA consortium was curious about TVI’s own findings.

With my limited internet connection, I read TVI’s statement on the recent HRIA report, which was released on May 30, 2007. It criticized the Philippine report stating that while it applauds the mission and objectives set out in Rights and Democracy’s report, the company finds the report “seriously flawed and factually incorrect” (TVI Pacific, 2007). TVI explained that R&D did not directly prepare it but “rather (it was prepared) by a research team, which consisted of well-known opponents of the mining industry in general and TVI Pacific’s Canatuan project in particular.”

To TVI, the report “evidences a biased view of TVI Pacific’s operations... and completely ignores the positive effects of its numerous initiatives to improve the well-being and

standard of living of the Indigenous population in the area... and its efforts to minimize the environmental impact of mining operations at Canatuan” (TVI Pacific, 2007). Clinton Jesse, TVI Pacific’s CEO, pointed out that the conclusions and recommendations set out in the Philippines Case study “coincide with positions advocated by members of the research team...and those organizations that have consistently taken positions adverse to TVI Pacific. He said, that it “provided them with another forum to propagate their agenda” and largely ignored the very positive benefits that TVI’s presence in the Philippines has produced in the areas of human rights, health, education, security, employment, standard of living, culture, housing and freedom of association (TVI Pacific, 2007).

That night I laid awake in the Manresa Retreat House recalling the whole research process. I was second guessing myself. Did I exercise due diligence in gathering the data? Had I not questioned and examined the assumptions and agenda of each member organizations, and examined my own biases in relationship to those who are for or against mining? Was each sectoral group consulted and had each participated in the research process? I recalled that several individual and group respondents had disclosed that they were not cooperative or simply refused to be interviewed by TVI’s HRIA team. From them, I learned that the company had also formed its own research team to test the HRIA prior to my entry into the field.

Had I made sure that the R&D researcher was present with a translator by her side in most of the focus group discussions and interviews that were held? I knew that she also audio recorded and participated in the writing process. That included a scare that her newly bought Apple computer might not function at all when water from a tank spilled directly on it. Had we also made sure that each paragraph that we had written was also painstakingly translated in the Bisayan language for everyone to understand, verify, and validate?

How had I managed the other community-based researchers' ideas of conducting research? Actually, I was surprised to find out that the field assessment was initially conceptualized as a fact-finding mission when we were already on our way to Canatuan. A member of our contingent, a high-profile Indigenous woman leader from Northern Philippines, who worked for the United Nations, expressed her disappointment and frustration, saying that it was a waste of her time. I took everything in as part of my collaborative fielding with other researchers. Knowing the terrain and environment in Canatuan, I wondered how a fact-finding mission was also going to be conducted at such scale in a short time without seeking assistance from the company. I recalled TVI's community relations officer chuckling when he mentioned that the anti-TV I Church group held a Stations of the Cross heading to Canatuan during Holy Week in 2005 and did not consider the logistics of how they were going to transport the participants back to Siocon poblacion. In the end, it was TVI that provided the trucks to take them back to town, he said.

I recalled that in April 2006 when we reached the Malusok checkpoint to conduct the HRIA in Canatuan, another curveball came my way. There I found out that another group of researchers from Dipolog was seeking entry to TVI's premises on the east side. They took the road going to Canatuan from the Municipality of R.T. Lim in Zamboanga Sibugay. I can still only cringe remembering that while interviewing TVI's management team in Canatuan, this group of researchers that were fielded by the members of the Philippines HRIA consortium, had the idea that conducting an assessment was like being in a tribunal or a kangaroo court. While I knew who led the other group, it was my first time to meet most of the researchers that he had brought along.

Initially, I saw TVI's statement as a personal affront to my credibility as a researcher. Upon reflection, however, I also realized that the company's statement was intended to discredit

community voices. I daresay that the community remembers far more than the company, whose institutional memory is rather thin with its rapid turn-over rate of employees in both management and staff. I took note of the fact that in 2004, when I was conducting a case study on the implementation of the free, prior and informed consent in the case of the Subanos and TVI's mining project (Sanz, 2007), there was only one employee remaining who was hired since TVI set up its mining plant in Canatuan in 1996. When I came back to conduct the HRIA in 2006, he was no longer with the company. Also, in a span of six months since we conducted the HRIA in Canatuan in April 2006, we had to validate and verify our data with TVI's new plant manager. I saw that the company could not refute what the voices in the community were saying about its abuses against their kin and friends. At best, it could broaden the discourse on human rights by citing its current initiatives in advancing Indigenous and human rights in Canatuan. These include rights to education, health, security and the like, which could substantiate TVI claims that its presence and operations have positive consequences in Canatuan and its surrounding communities. The company also had never released its own HRIA report. Despite my recognition of the company's tactics, their rebuttal had shaken me.

That night in Manresa, I wondered what lay ahead in conducting research on mining in Mindanao. Mineral liberalization had polarized the nation such that it only two positions were considered – for and against mining. I recall in 2004 that a US Government-funded development agency had expressed interest in my mining research since it touched on resource conflict and peace issues in Mindanao. The development agency had paid for my plane fare to Manila and accommodations at the Asian Institute of Management with other researchers, whose research agenda touched on *rido* (clan conflict), peace education, women in conflict zones. I was the only one who was conducting research on mining in Mindanao.

Unfortunately, the development agency did not fund my research since the agency considered it to be too politicized and controversial.

In 2007, however, I found myself leading a quite diverse research team composed of researchers from the three Jesuit Universities in Mindanao – Ateneo de Davao University, Ateneo de Zamboaga and Xavier University. These three Jesuit Universities funded the research with additional partial funding by the same development agency which had withdrawn its potential support for my research agenda in 2004. This new development dovetailed a consultation with key figures – Jesuits and lay people – of the three Jesuit Universities in Mindanao in May 2006 to explore possibilities of collaboration, partnership and cooperation better to respond to Mindanao issues and concerns. In that gathering, several questions were raised. What is the problem in Mindanao? Where can the Jesuit Universities help out?

One of the issues raised in that gathering was mining and the need for further studies. It was also suggested that a working group should be formed to seek answers to unanswered questions about policy problems, ideological reactions to mining, other resources such as water that would be impacted by mining in Mindanao. As a response, the Jesuit Universities in Mindanao commissioned Mindanawon Initiatives for Cultural Dialogue to lead a collaborative research effort on mining in Mindanao to take on three questions. Will mining bring development to Mindanao's impoverished hinterlands? Will mining bring peace to its troubled landscape? Who are the stakeholders in mining Mindanao rich mineral resources?

The members of the research team were from the disciplines of chemistry, philosophy, anthropology, business administration, economics, psychology, education, and sociology. Except for one Indigenous professor, a Tinguian from Northern Philippines, all others were from

Mindanao and third generation settlers. Eight of us were women. All but one of us were experienced field workers. The one had yet to go into the field and in Siocon at that.

In our first write-shop, we agreed that we would have two research phases. The first phase would be to review the development frameworks and policies that were implemented in Mindanao and the national and regional policies pertaining to mining. The second phase would be to analyze mineral development stakeholders. These veteran researchers who had participated in various development projects and sites across Mindanao and elsewhere needed no convincing that conducting a stakeholders analysis was the way to go in understanding the impact of mineral development in Mindanao. I suggested then that we had to conduct stakeholders analysis for each of the mining stages.

My fielding in Siocon, in various Lumad tribes and in areas that had been affected by an extractive industry, had impressed on me the complexities of communities that included the presence of various stakeholders whose interests differ in various sites. My experience included conversing with mine workers in Johannesburg in South Africa and with the survivors of the Marcopper disaster in Marinduque, and in visiting Indigenous miners in Itogon in the Cordilleras and at abandoned mines in Baguio City in Northern Philippines. I had even gone inside small-scale mining tunnels in Diwalwal, though I was told that a female in the tunnel brings bad luck to them. I also witnessed the excavation and removal of several dead bodies of small-scale miners killed in a gunfight in the tunnels of Diwalwal in Davao del Norte, where at least 40,000 people depend on small-scale mining. When I asked some small-scale miners about what really happened, I was met with their code of silence. I learned that silence is an exercise of their agency when dealing with such adverse consequences because the government could decide to temporarily shut down the tunnels as it had in the past, preventing them from earning a living.

My fielding in these sites had demonstrated to me that contexts are constantly changing and that actors can shift identities along with their interests or even disappear altogether as the mining lifecycle follows its course. Personally, one of my curiosities was not only knowing who the stakeholders were and who were directly or indirectly affected by mining, but also at what point these shifts in contexts and interests occur. Certainly, environmental changes in mining were only one of the factors that contributed to the changing contexts. The further question was what other causes and dynamics were at work such that foes become allies. When do their interests shift and when do actors or communities change identities? In pondering these questions, I had a hunch that using a stakeholders analysis in understanding the consequences of mineral development in Mindanao might not be sufficient for grappling with the complexities we were going to discover on the ground.

As Fortun (2009) has pointed out, the value of the stakeholder model is its recognition of difference. However, due to the model's goal to manage difference, in practice the model forces diversity into consensus. As a consequence, each stakeholder community is then considered to be "epistemologically homogenous and epistemologically consistent...(and community stakeholder members) are assumed to think alike...can't seem to learn, remaining unchanged over time" (Fortun, 2009, p. 11). Hence, in using "a stakeholder model, government agencies are expected to think objectively, procedurally, politically. Corporations are expected to think objectively, technically, financially and legally (Fortun, 2009, p. 11). The stakeholder model, like most pluralist models, cannot seem to tolerate much complexity or dissent (Fortun, 2009). As we went deeper into the mining fields of Mindanao, we heard a multiplicity of voices. What they were expressing was bringing such complexity of messages whose interrelations and reciprocal qualifications have to be attended to and simultaneously taken into account (Weakland, 1976, p.

312). My fieldwork in Siocon and elsewhere had impressed on me that once mineral development moves towards the extraction stage, it brings about rapid and massive changes that would impact other actors who may not have been identified before the mining project began. However, with a team composed of researchers from various disciplines, the stakeholders analysis would serve as a baseline tool that would focus and bring together our different perspectives and disciplines. We also faced the challenge of accessing published books and literatures on mining since the costs of purchase were very expensive and international journals were only accessed with certain fees. Theorizing on the impact of mineral development in Mindanao's communities would also be limited as well.

Our two research tasks were: 1) to identify the potential and actual conflict areas vis-à-vis mining in Mindanao; and, 2) to identify and characterize the stakeholders in each of the mining stages: exploration, construction and development, extraction, and decommissioning. Prior researcher activities included a round table discussion where speakers and academics from various disciplines and fields had gathered to converse on two questions. 1) How can stakeholders in the mining context be responsible for community sustainability and empowerment, and for Mindanao's peace and sustainable development? 2) How can this process take into consideration issues and concerns on human rights, social costs, peace, environment, economics and development?

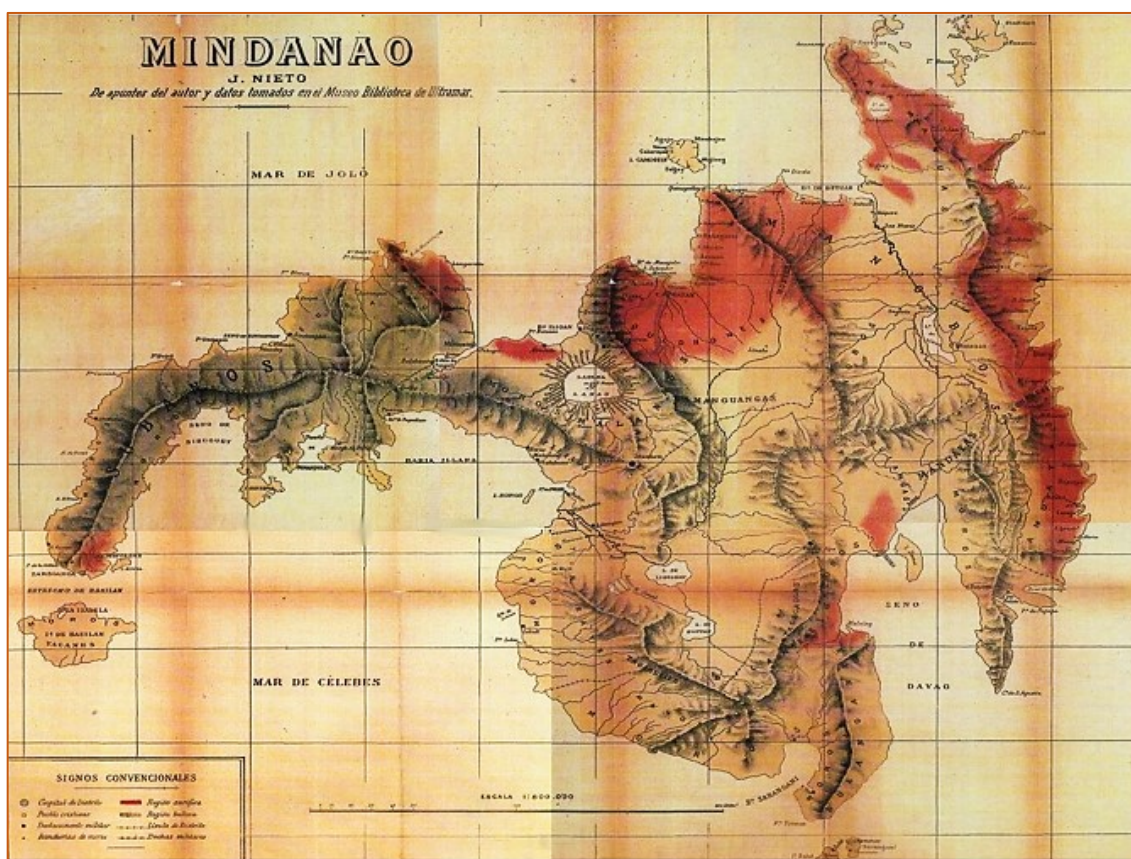
Mindanao had conceptualized the round table discussion to be a venue for "dialoguing and to freely exchange ideas... by breaking things apart... into different factors, variables... and analyze the different dimensions of mining, the factors, the issues, the themes that govern this development issue in the spirit of inquiry rather than advocacy.... inquiry and questions. We would like to stimulate inquisitive thinking. We would like to provoke thoughts and even

questions” (Field notes, October 6, 2007). The resource persons were all invited to attend the round table discussion without studies or papers to be read. It was intended that the conversation would “take off from where the people are, from where the experts are, from where the resource persons are” (Field notes, October 6, 2007). The RTD was meant to create a space where there would be a confluence of ideas and synthesize whatever stakes, whatever position each participant had. Their insights and reflections were carefully considered by the mining in Mindanao research team after the RTD. For instance, as one peace negotiator between the Government of the Republic of the Philippines and the Moro Islamic Liberation Front pointed out, the language used had already put the communities at a disadvantage. For one, mining and its technicalities are often spoken and referred to in the English language. What does “stakes” mean in the localities? Does it mirror and reflect the rank and power that we also assign to stakeholders? When it comes to resources, it is not only mining that we were talking about. There were other resources involved and hence the question of who owns them.

The composite team agreed that we would be examining mining sites in our respective regional areas in relation to the lifecycle of the mine. The Ateneo de Zamboanga University team would be exploring Zamboanga Peninsula for appropriate mining sites that would capture the dynamics during transitions between small-scale mining to large-scale mining. Xavier University in Cagayan de Oro City team would be looking into the closure or decommissioned mining sites in the Caraga Region comprised of Agusan del Norte, Agusan del Sur, Surigao del Norte, Surigao del Sur and Dinagat Islands. Based on my fieldwork and literature review, I knew that Mindanao’s oldest mining sites were located in the Surigao Provinces in the early 1900s (Tujan & Guzman, 2002; Cutshall, 1942; Ferguson, 1911). Also, mapping of Mindanao’s gold resources had been conducted towards the end of Spanish colonization in 1898, long before satellites and GPS devices

had even been conceived of. Jesuit priest J. Nieto's 1871 map showed the *Region Aurifera*. Shaded in red, the gold regions were also found in territories of the “wild tribes” of Mindanao. Red tint stretched from the northern mountains of Butuan and Surigao, formerly known as Caraga in the early Spanish accounts in Northeastern Mindanao where the first gold-rich areas were identified in 1567 (Lopez 1992). It stretched towards the southern mountain ranges of Davao Oriental which were in *Mamanua* and *Mandaya* territories respectively. Gold was also spotted in the Davao area where Blaan, Tagacaolo and Bagobo Indigneous territories are located, and in Northern Mindanao in Iligan and in Osamiz where the Higaonons and Subanos are.

Paring Bert had obtained a copy of this 1871 Spanish map during the time he was still taking his doctorate studies in the School of Asian and Oriental Studies in London, United Kingdom sometime in the mid-1990s.



Ateneo de Davao University's researchers and Mindanawon research fellows would scout for mining sites in the SOCKSARGEN Region, an acronym that stands for South Cotabato, Cotabato City, Cotabato Province, Sultan Kudarat, Sarangani and General Santos City, in South Central Mindanao, and in Davao del Norte Provinces.

When we all gathered for the second phase of the mining research, we further refined our research questions. Are the pro- and anti-mining advocates the only sides to the issue? Are there other voices that should be heard? Where are these voices located? Who are the stakeholders in mining? Who benefits from mining? How are they affected as the cycle of mining progresses? What are their interests?

The research team also chose the following sites (see Figure 4-4).

- 1). The exploration project under a mineral production sharing agreement (MPSA) claim of TVI Resource Development Philippines (TVIRDP) in Bayog, Zamboanga del Sur, a site found to have excellent gold and silver deposits. Aside from the Subanon, who are in the process of claiming their ancestral domain, there are also small-scale miners in the area. The Municipality of Bayog is an agricultural town situated in a plain watered by the Sibuguey River and its tributaries. This water system has been controlled since the 1970's by two dams, the Sibuguey Irrigation Dam and Dipili River Irrigation Dam, both of which are designed for irrigating some 100 square kilometers of rice fields. At the time of research, there were six irrigation facilities in operation, watering 3,348 hectares and benefiting 2,281 farmers from Bayog and other neighboring municipalities (Junio and Araneta, 2018). The Ateneo de Zamboanga University researchers were assigned to this area.

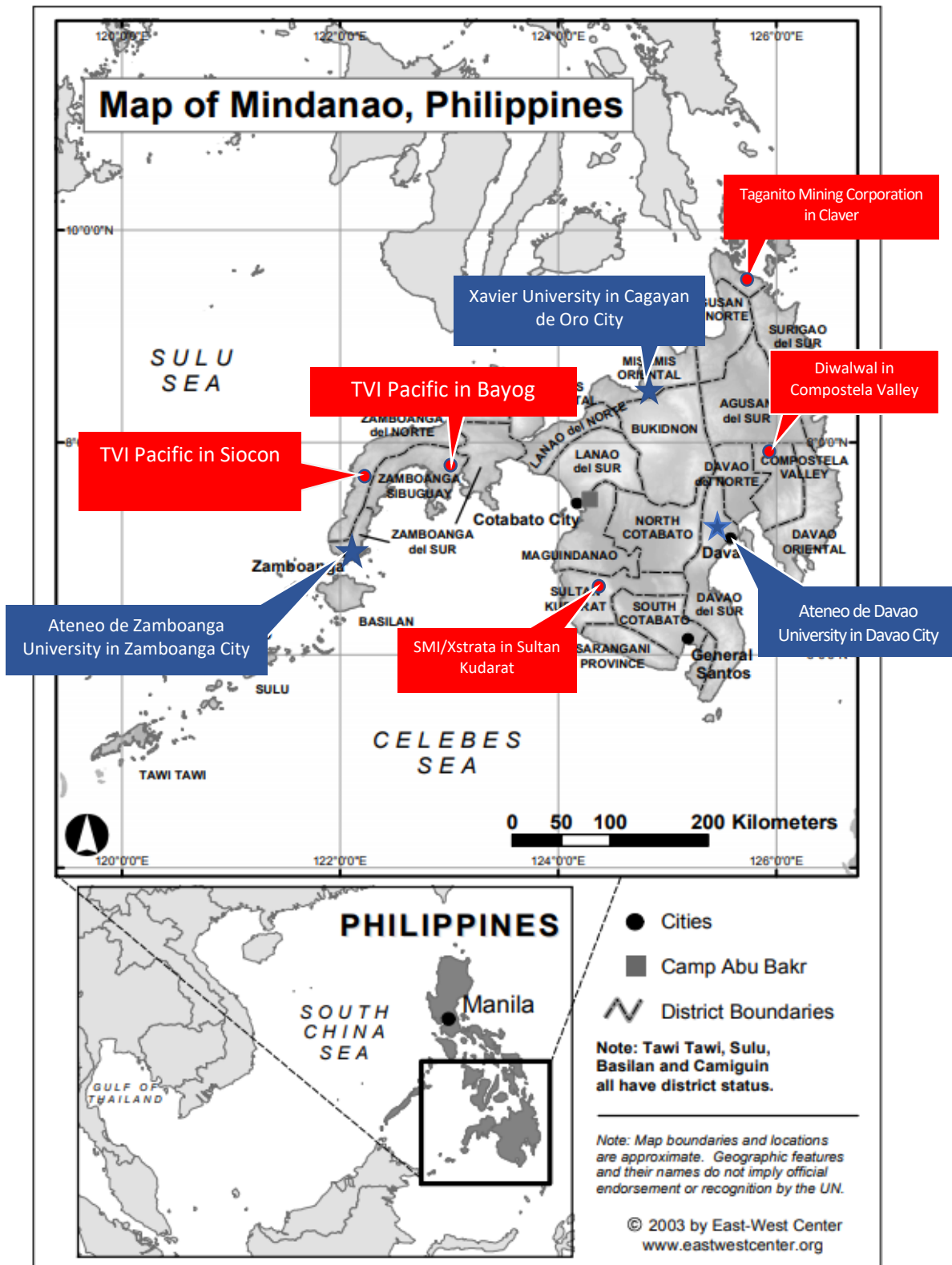


Figure 4-4. The research sites of the Mining in Mindanao collaborative research are located in the Municipality of Bayong, Zamboanga del Sur; Municipality of Siocon in Zamboanga del Norte; Taganito in the Municipality of Claver, Surigao del Norte; Tampakan in Sultan Kudarat; Diwalwal in Monkayo, Compostela Valley

Map used: East-West Center (2003).

2) The exploration stage of Tampakan Copper-Gold Project of Sagittarius Mines Inc.- XStrata Queensland Ltd's (SMI-XStrata) which was on an extended pre-feasibility phase at that time. The company has a Financial and Technical Assistance Agreement (FTAA) with the Philippine Government, which covered at least 23,571 hectares. This project straddles the boundaries of three provinces: South Cotabato, Sultan Kudarat and Davao del Sur. The project area encompasses three municipalities: Kiblawan in Davao del Sur, Columbio in Sultan Kudarat, and Tampakan in South Cotabato, and five barangays: Pula Bato, Danlag and Tablu in Tampakan, Datalblao in Columbio, and Kimlawis in Kiblawan. The ongoing exploration drilling site is about 25 kms. west of the city of Koronadal, nearly all in the Municipality of Tampakan. Within the FTAA area are two (2) Certificates of Ancestral Domain (CADCs) that had been awarded to at least four groups of Indigenous B'laan. The Tampakan deposit represents one of the largest undeveloped copper-gold deposits in the South East Asia-Western Pacific Region (Tomas & Celebrado, 2008). The Ateneo de Davao University was assigned to this area.

3). The polymetallic project of TVI Resource Development (TVIRD) in Brgy Canatuan in Siocon, Zamboanga del Norte in the operations stage of mining as its ore life was scheduled to end in 2008. However, TVIRD was seeking a permit for expansion from the Subanon, who are holders of Certificate of Ancestral Domain Title (CADT). Mindanawon's administrative officer,

who was taking a master's degree in economics took on this case. This was her first time to go in the field and conduct research in the hinterlands.

- 4). Nickel, the second largest metallic reserve in the country after copper, is found in Surigao del Norte Province in Northeastern Mindanao. Although discovered in 1912, its development and extraction started only in the 1970s on Nonoc Island. Thus, the nickel project of Taganito Mining Corporation (TMC) in the Municipality of Claver, Surigao del Norte Province, was chosen. In operation since 1986, it has won prestigious awards for its environmental program. It operates in a fourth-class municipality, part of the ancestral land of the Mamanuas. It lies along the coastal areas of Surigao del Norte and facing the Philippine Deep, where the highest annual perceptible shocks and the greatest number of significant earthquakes have been recorded. Although typhoons are infrequent, they have caused massive destruction to the municipality (Macabuac-Ferolin, 2008). Xavier University was assigned to conduct this case study.
- 5). A mini-case study on small-scale mining operations in Diwalwal, Monkayo, Compostela Valley. The team regarded it as an “appropriate case in anticipating the social, environmental, and political impact of mining given that the anarchic events arising in the area prompted the enactment of the 1991 small-scale mining law” (Canuday, 2008, p. 1). Another Mindanawon research fellow was also assigned to the area due to familiarity with the place and issue.

What challenges would academic researchers from the three Jesuit Universities in Mindanao face when fielding in politicized (and violent) environments that are so not only for historical reasons, but are also further exacerbated by the Philippine State's mineral liberalization policy? One thing for sure, ironically, was the layer of uncertainty posed by the fluidity and complexity of each case study that we aimed to capture. Another layer came from the different lenses that the different researchers drew on in analyzing each case study – a problematic for interdisciplinary projects generally.

On the ground, we witnessed the fluidity of contexts continually changing. Stakeholders' interests and views also evolved. New actors appeared on the scene as the stages in the mining cycle advanced. Central issues and stakes also shifted over time. We found it challenging to adopt the State's definition of stakeholders in a mineral development project. For one we were cognizant of the fact that "unlike forestry, a mine site does not occupy the entire concession area and may encompass a few square kilometers. The environmental and social impacts of mining can extend well beyond the concession area, depending on the stage of mining" (Miranda et al., 2003, p. 6).

The Republic Act 7942 or the Philippine Mining Act of 1995 broadly defines stakeholders as person(s)/entity(ies), who may be significantly affected by the project or undertaking, such as but not limited to contractor/permit holder/permittee/lessee, members of the local community industry, local government unit, NGOs and peoples organizations. In the Department of Environment and Natural Resources' administrative order 96-40 (the implementing rules and regulations of the Mining Act), stakeholders are narrowed down to: (a) host community as "the people living at the barangay(s) outside the mine camp, where the mining project is located"; and (b) neighboring community as "people living at barangay(s), which are adjacent to the host community"; (c) areas covered by the mining tenement of the

project; (d) areas where mining facilities are located; and (e) immediate areas which will be affected by the mining operations.

In addition, the Philippine Environmental Impact Statement (EIS) System (Presidential Decree No. 1586) or the Department of Environmental and Natural Resources Department Administrative Order (DAO) No. 2003-30's procedural manual has defined direct or primary impact area, and the secondary impact area. Direct or primary impact area refers to areas where the project facilities or infrastructure will be located, such as buildings or structures, irrigation, drainage and other utility areas, quarry sites, access roads and areas such as the following:

- Areas where there will be displacement of settlements or livelihood;
- Areas directly vulnerable to potential flooding or inundation that may be caused by the project;
- Areas along the main tributary downstream of the river system that will be the receiver of waste discharges;
- Areas where there will be disturbance of habitat or endangered species;
- Catchment area of river systems or watersheds; and
- Ancestral domain of Indigenous communities that may be directly affected by the project.

The secondary impact areas are those that may be indirectly affected by the proposed development. This may include areas in the vicinity of the direct impact areas such as,

- Communities or settlements outside the direct impact area which can also be benefited by employment opportunities created by the project;
- Sub-tributaries of the river system which can be indirectly affected by pollution; and
- Areas where water sources will be indirectly affected by drawdown in the direct impact area.

Such categorizations may indeed be informative to state planners and regulators who tend to view the world through grids and area zonings. However, as we listened and took down notes as to what these areas mean and how they relate to various stakeholders and stakeholder groups, and their respective lifeworlds and subsistence within, alongside, adjacent to such categorizations, we concluded that impact not only went beyond spatial place grids or area zonings that the state had perceived, but also beyond the present in terms of historical timelines. The voices we heard were very diverse in location, in culture, and in time.

4.6.1 Core Stakeholders

For our analysis, the research team had identified two types of stakeholders: core stakeholders and critical stakeholders. We defined core stakeholders as “those whose means of subsistence, sustainability, and lifeworld are affected (positively or negatively) by mining operations, who may have pre-existing claims or ownership over the resources covered in the mining development area. Those who have provided major inputs or contributions to mining activities such as financial and technical are also included” (Mindanawon Initiatives for Cultural Dialogue, 2008). Core stakeholders were Indigenous peoples, small-scale miners, mining company personnel, state officials. They also included persons in downstream communities belonging to other municipalities and barangays and to sectoral groups.

Critical stakeholders were those concerned about the general community welfare, environment, and other social, cultural, economic or political interests related to mineral development. They could be individuals, social groups and institutions who provide facilitative roles, technical or security support to the core stakeholder groups.

We learned that as one of the core stakeholders, the Indigenous peoples have expressed differing positions on mineral development. Some were in favor of mining; others against it; and

still others were calling for a moratorium on mining applications in their ancestral domain. Those who were against mining were expressing sentiments that ranged from anti-mining company to anti-large-scale mining but small-scale mining as acceptable to those against mineral development per se because it went against their Indigenous notion of development. Those who were calling for a moratorium on mining applications in their ancestral domain clarified that they were not against mining as such. Rather, they wanted to strengthen their Indigenous governance, underscoring their right to self-determination and right to ancestral domain.

We also discovered that distinctions needed to be made among small-scale miners. There were those whose survival and livelihood depended on their labor and the mineral resource. We viewed them as subsistence small-scale miners. There were other small-scale miners who, in time, were able to save up, build ball mills and carbon in pulp machines and process ore in their own homes. They were slowly evolving into entrepreneurial family-owned small-scale miners. Another category we identified were miners who were able to pool capital and resources to form a corporation such as JB Brillantes and Blucor in Diwalwal. With their capacity to mine and process ore, they no longer belonged to this category, though they were still referred to as small-scale miners. We also projected the “rise of corporate lumads” (Canuday, 2008).

The downstream communities were composed of various stakeholder groups such as farmers, fish-farmers, fish merchants, and fisherfolk. Their farms, fishponds and businesses were dependent on natural resources and were potentially adversely affected by the impact of mining operations. The mining companies have different scales of capacities. Xstrata Plc, which belongs to the top five global mining companies, appear to be well-prepared in addressing issues and concerns of various stakeholders and in meeting the standards of responsible mining. Junior

companies such as TVIRD and Taganito Mining Corporations have to work harder in meeting the promises they have made to the communities.

The Philippine State plays a dual role as both a developer and protector of Mindanao's natural resources. By virtue of the regalian doctrine, the state owns and control the natural resources in terms of their disposition, utilization and management. Following the neoliberal policy paradigm, natural resources are treated as assets (material input) and stake for the state to participate and engage in the global market to bring development and growth into the country. The state, cognizant of the poor track record of the Philippine mining industry in its environmental and social responsibilities, is responsive to calls for environmental protection as manifest in its policies on coastal resource management, clean air and forestry. In the matter of mineral development, the state's rhetorical discourse is a claim of responsible mining.

4.6.2 Critical Stakeholders

The research team decided that critical stakeholders in mineral development also included the civil society, the Catholic Church, academe, and armed groups.

The civil society is composed of peoples organization, non-government organizations and the church. Its network spans from the local and religion levels of barangay and municipality to the national and international levels. Members of the civil society believe that mining incurs environmental and social costs that deprive people of access to land and other natural resources. They are mindful of the history of Philippine development which has denuded the forests and destroyed coastal resources that impoverished communities, particularly Indigenous peoples. Currently, the Philippines' civil society has been in the process of formulating and promoting an Alternative Mining Law/Policy that is pro-Filipino, pro-poor and pro-environment. They have also been pressuring the government to provide the necessary basic services to the people,

considered to be its main responsibility. However, on the ground, civil society coalitions and groups were emerging funded by mining companies. These were supportive of sustainable mineral development such as the Sustainable Mining Coalition, based in South Cotabato that advocated for sustainable mineral development.

The Catholic Church has been an influential force in Mindanao. Its orientation and issues may be summed up as follows: conservation, humanitarian development, poverty alleviation, and following democratic processes. As a social institution, the Catholic Church has been self-funded or capable of generating funding for its projects through partnerships with donor agencies. It has its own media arm with an extensive network and human resources through its Basic Ecclesiastical Communities, which have been very strong in Mindanao.

Academe and the media play crucial roles in society as knowledge producers and information channels. Academe has engaged with the mining companies through commissioned research, such as baseline data and biodiversity study. Due to mineral development in the region, academic enrolment may rise due to the scholarly applied research projects that the mining company may tender to its communities. The media, on the other hand, has shaped public opinion through print and broadcast. Journalists report critically, both favorably and unfavorably, on mineral development issues and developments depending on their respective principles and standpoints. Media institutions have also benefitted from revenues of mining company advertisements.

The research team had also identified that armed groups such as the military, ideologically driven groups such as New Peoples Army and the Moro Islamic Liberation Front, and violent entrepreneurs or “for hire” armed groups are crucial stakeholders in mineral development. The Philippine military has played an important role in ensuring the security of foreign-owned

corporations operating in the Philippine hinterlands. It should be noted that the Philippine Government has had bilateral investment treaties with at least 35 countries which oblige Government to protect foreign investments. However, in protecting foreign-owned companies, government military units could (and did on various occasions) bring harm to the communities. Another critical armed group is the violent entrepreneurs, who sell their services such as kidnapping, ambushing, and bombing to create confusion, fear and conflict in mining areas.

4.6.3 Grappling with Complexities

The Aeneo de Zamboanga research team had documented the interaction and differing interests of stakeholders in Bayog, Zamboanga Sibugay. Junio and Araneta (2008) have noted the challenges affecting communities face when two scales of mining – foreign-owned large-scale mining conducting mineral explorations, and small-scale mining in a typical gold rush setting – were simultaneously operating and competing for mining claims. Some stakeholders preferred small-scale mining while other stakeholders chose large-scale mining. A faction within the Indigenous Subano group proposed a moratorium on any mining applications (mineral production sharing agreement, financial and technical assistance agreement, and joint venture agreement) being submitted to the Mines and Geosciences' Bureau that are within their ancestral domain in order to prioritize their CADT application processes. While not fully in conjunction with anti-mining groups that are opposed to all forms of mining, this faction of the Subano would tend to ally with them. This team presented a rich account of the conflict within an Indigenous Subanon community, documenting a long running struggle between those favouring mining development from outside and the small-scale miners and downstream farming communities opposing from within. Junio and Araneta's (2008) case study had also brought out

transboundary and multi-jurisdictional issues among three provinces as to the territorial rights related to mining revenues.

Additional complexities related to mineral development were discovered by the Ateneo de Davao research team. Tomas and Celebrado (2008) conducted the case study on Tampakan Copper-Gold Project of Sagittarius Mines Inc.- XStrata Queensland Ltd's (SMI-XStrata). This project, in one of the largest undeveloped copper deposits in South East Asia, posed possible development with significant economic-social costs and risks. Tomas & Celebrado (2008) have also identified challenges to governance with the ever-present politics of power and interests among core and critical stakeholders, noting that achieving a balancing act is very difficult. In the context of Tampakan mining and the ongoing wider mineral development in the country, Tomas & Celebrado (2008, pp. 64-70) made eight recommendations:

- 1) increase information dissemination and education about mining so communities upstream, downstream and the general public will be able to understand its impact;
- 2) re-state and re-negotiate the Indigenous Peoples' principal agreements with the company to promote informed consent and obtain better terms;
- 3) provide spaces for dialogue where all affected stakeholders, which include Visayan settlers, can converse about the breadth of the ecosystem that will be affected by the mining waste stream;
- 4) help strengthen local community organizations for better negotiation and conflict management;
- 5) define parameters for allocation and use of community development funds and ensure proper accountability;
- 6) continue asserting customary laws and processes and interfacing with statutory governance mechanisms, especially those for conflict and ancestral domain management;
- 7) build and strengthen networks for greater support; and
- 8) continue designing and conducting technical and social research to improve understanding of mining (especially large scale) towards finding better options in addressing mining-related conflicts and concerns.

The Mindanawon Initiatives for Cultural Dialogue's researcher assigned to study TVI's ongoing gold and silver mining project in Canatuan brought a different perspective. Tio's (2008) work raised issues on the economics of mining related to taxation and wealth distribution as prescribed by Philippine laws, and the economic dislocation brought about by the cumulative impact of mining on the environment, particularly on how the downstream communities were affected. She demonstrated this through revenue comparison of foreign-owned large-scale mining at its peak of operations in 2005, and a once thriving fish-farming industry downstream in the 1990s. While data used was based on estimates of the fish-farmers, it brought into question issues of sustainability, cost of mining to local economies and the cumulative environmental impacts of an extractive development agenda. Bautista's (2008) work on the economics of mining in the Philippines gives a macro perspective about the cost and benefits of mining as a driver for economic growth, further challenging the claims of the state about the economic advantages that mining will bring to the larger Philippine economy.

The case of Taganito Mining Corp (TMC) in Surigao del Norte was distinctly different from the other case studies. Macabuac-Ferolin (2008) reported that all stakeholders approved of mining in the mountains of Claver which they viewed as unproductive. Since the local church had engaged with the company in a critical collaboration, no one among the parishioners was opposed to TMC's mining project. Most of the people in the municipality depended on subsistent livelihoods, particularly fishing. Farming is not dependable, they said, because in most areas in Claver the soil is very acidic. Many of the community stakeholders who were interviewed were glad for this mining development because they are able to work at least 5.5 months each year with TMC. They are able to eat rice three times a day, buy some household appliances, and also send their children to elementary school (Macabuac-Ferolin, 2008).

However, Claver's community stakeholders share some common fears and apprehensions about the environmental implications of mining. These include siltation which threatens coastal and marine resources. Macabuac-Ferolin (2008) also reported they fear that farms will soon be filled with laterite such that the land can no longer be used for farming. Since the forest trees are mostly gone, they fear that the waters coming from the mountains will also be adversely affected because of mining. But as Macabuac-Ferolin (2008) notes, all these concerns pale in comparison to the stakeholders' dire need of jobs as sources of income promised by the mining project. She also noted that when further questioned, the stakeholders said that job opportunities were scarce and insecure. For instance, of the 60 Indigenous Mamanuas in Urbiztondo, only 20 have worked so far. It was so difficult to get jobs that they had to bribe someone from human resource. There was also a depletion of marine resources with a dramatic fish-catch decline and disappearance of certain varieties of fish. There is also food insecurity with fish prices going up.

When it comes to small-scale mining in Diwalwal, Davao del Norte, Canuday (2008) reported that the idea and legal meaning of small-scale mining have been discriminatory, intended to keep small miners perpetually poor and living with underdevelopment. The small-scale mining act of the Philippines defines small-scale mining as "mining activities which rely heavily on manual labor using simple implements and methods and do not use explosives or heavy mining equipment." Canuday (2008) categorized at least four stakeholders: 1) the Core Actors or those directly engaged in mining; 2) the State Agencies in reference to government institutions and forces; 3) the Actors Indirectly Dependent on Mining operations; and 4) Other Interest Groups which strongly figured into the Diwalwal controversy but without actual involvement in mining activities.

The core actors in Diwalwal's small-scale mining industry were comprised of the following: Lumads (Indigenous); the "service operators" or mining firms operating the tunnels; mining labourers; the government-organized mineral-based corporations; the mining conglomerates; and, other non-mining conglomerates with stake over the area (Canuday, 2008). What was key to Canuday's (2008) report was that in Diwalwal, there had been a rise of corporate Lumads who were claiming ancestral connections to the area. According to Canuday (2008), the miners with native ancestry were the first, in the early 1980s, to find gold and mine the area. They were responsible for turning Diwalwal into a gold rush area and have deftly initiated partnership with mining conglomerates. The Lumads stayed and had never relinquished Diwalwal, even as new and more powerful interests have moved into the area.

4.6.4 Fielding and Ground-Truthing

Part of my fielding as lead researcher was to assist in the research and/or validation processes of the data that were gathered by the teams. When one of the researchers of the Ateneo de Zamboanga University research team was injured during fieldwork in the Municipality of Bayog and was unable to go back there for the validation process, I went to assist Regie to do just that. As in any of my usual fielding in the hinterlands of Mindanao, we not only had to cast our faith on God's providence as to where we would find shelter for the days and nights we were going to be in the barangays (villages), but also they we should expect to find the devil in the details when ground-truthing.

When we arrived at Bayog's poblacion, we immediately headed out to barangay Dipore to seek out its barangay captain. It was already dusk when we came back. Not knowing where to stay for the night since there were no motels or boarding houses, we made a beeline to the Catholic parish church. One of the things I'd learned in college as a campus journalist and

hobnobbing with alternative and veteran media practitioners was that when you have nowhere to stay, go to the *parokya* where a Catholic priest was assigned. If there is none, look for the elementary principal. I have yet to experience a time when I found myself in such dire straits that I was turned away by either of these two community actors.

At 9 pm in October 2007, we went knocking at Bayog's Catholic parish rectory. An Italian priest, a member of the papal missionary order Pontificio Istituto Missioni Estere (PIME), came out to the balcony and fluently admonished us in Bisaya that it was already very late. He then asked us what he could do for us. We knew that a PIME priest had been assigned in Bayog. Just a few months before, in June 10, 2007, Fr. Bossi, his Italian confrere was kidnapped by "rogue elements" of the Moro Islamic Liberation (Conde, 2007) in Payao, Zamboanga del Sur. Regie and I were mindful of PIME's rich history of offering their lives to the weakest and poorest of Mindanao, even if it meant the threat of being held captive or killed. Three PIME priests had already been murdered in Mindanao and several others had also been kidnapped. Among these were Fr. Tulio Favali who was beheaded by the Ilaga, a vigilante group in North Cotabato in 1985; Fr. Salvator Carzedda killed in 1992; and later in 2011, Fr. Fausto Tentorio or Fr. Pops, as he was known, gunned down by an assailant. So we understood the caution that *padre* took.

Outside the gates of the parish rectory, we explained who we were and that we needed somewhere to stay for the duration of our research validation, even if it meant sleeping in the parish church's stock room. A few minutes later, the parish church's cook ushered us in and took us straight to the stock room. Why did *padre* have to take us literally? I mumbled to myself as I saw dusty religious statues and two makeshift beds inside the church's small stock room. But beggars are never choosers. We simply nodded our heads when the cook pointed out to us that the bathroom is outside. We immediately spread out our sleeping bags, not caring anymore if we

were going to have rats or cockroaches crawling over us. It had been a very long day and we had come back to the *poblacion* much later than we anticipated. By that time, all *sari-sari* stores or eateries were already close. So, that night we went to bed with hungry stomachs.

The next day, we went to see the two Subanon factions of the Bayog United Subanon Organization (BAUSO), which the Subanos themselves refer to as BAUSO 1 and BAUSO 2. BAUSO 1 was registered with the government's Securities and Exchange Commission. BAUSO 2 chose not to be registered since the SEC's rules and regulations were incompatible with the Subanon's traditional leadership, and they preferred to apply only its traditional governance system to avoid problems that BAUSO 1 had encountered (Junio & Araneta, 2008). The two groups attempted to reunite the Subanos of Bayog through a ritual called "sapa", which reconciled their leaders. They also agreed during the ritual that the group would have a new name – Pigsalabukan Gukom de Bayog (PGB). But conflict arose when the leader of BAUSO 1 revived the group and used its name to favourably endorse TVIRD's exploration activities in Sitio Balabag. PGB's stand was to call for a mining moratorium so they could focus on the Subanos' certificate of ancestral domain title application (Junio and Araneta, 2008).

As I listened during the validation process of each group and went through Ateneo de Zamboanga University's draft report, I saw a pattern similar to the cases of the Salnaong B'laans' and Siocon Subanos engagements with mineral development. The Salnaong B'laans, opposed to the entry of Australian-owned Western Mining Corporation (WMC), had filed a landmark case at the Supreme Court, questioning the constitutionality of the Philippine Mining Act of 1995. Their lead council was LRC-KSK, who was also a member of the Task Force Canatuan. In February 2004, the high court ruled in favor of the B'laans. But shortly after they had won their case, the Salnaong Tribal Council had a change of heart, severing their ties with

LRC, and allowing Tampakan Mining Resources Corporation to conduct mineral exploratory activities in their ancestral domain in October that year. In December 2004, the Supreme Court also reversed its ruling and upheld the constitutionality of the Philippine Mining Act, specifically on its provisions on the financial and technical assistance agreement.

With divisions among their “sakup” (people), the pressure to restore harmonious relationships in their community often weighed heavily among the traditional leaders. In July 2007 when I went to Siocon for data gathering and fieldwork, I had a quiet but reflective conversation with Timouy Ben about their struggle. One of the things I appreciated in my fielding was listening to conversations where I got to hear closely the sighs of exhaustion and frustration, the varying timbre of uncertainties and doubts. There were no NGO community organizers present when I went there with the Mindanawon’s research fellow, who was leading the case study on TVI. As my colleague conducted a series of group interviews and validation, I sat with Timouy Ben watching and half-listening to the interviews. I asked him how things were going now that he was able to go back to Poduan. It was better, he said, since he was now able to take care of his swidden, which is a temporary agricultural plot that was cleared through cutting and burning of plants in a forest. Since 2004 he had been in self-exile due to threats to his life. His (third) wife Yvone had also put up a small store selling canned goods, pop drinks and whatnot that the growing population in Poduan and in Canatuan needed. “Her small store is helping augment our income,” he said.

Timouy mentioned that he has a forthcoming trip to the United Nations in Geneva, Switzerland to formally file a complaint with the UN Committee on the Elimination of Racial Discrimination (UNCERD). I asked him what he thought about doing that. Though he said he viewed it positively, I also noted his uneasiness. As expected, we talked about TVI, its mining

project, and that sometimes its employees came by. Later on, our conversation veered towards livelihood and eventually touching on negotiations with the company. I was struck that at that point Timouy Ben, who was already scheduled to go to Geneva to file a landmark case, was exploring alternatives.

I looked around at his newly built tribal hall. It was funded by a donor agency sympathetic to Timouy Ben's cause of strengthening Indigenous governance. But TVI is just a 20-minute ride away. I asked him if he wants to consult someone when it comes to negotiating with TVI. At that time, Mindanawon was also collaborating with the Ateneo School of Governance (ASoG), which was conducting a conflict study on the same communities. It was headed by Antonio Lavina, who was from Mindanao, a lawyer and former undersecretary of the Department of Environment and Natural Resources.

"If you want," I asked Timouy Ben for confirmation, "I will mention our conversation to Dean Tony when I get the chance."

Timouy Ben nodded saying, "sige, Pen maayo gani na (yes, Pen that would be good)."

4.7 Vignette 7 - Fielding (2008): "Thinking Through"

In early May 2008, Sheena an Ateneo de Davao, law student and daughter of a Mansakan chieftain, Datu Randy, consulted Paring Bert on how to help her father. Datu Randy was downhearted over the mining issue confronting his community in Barangay Mainit, Maco in Compostela Valley. His brothers were set to approve large-scale mining in their ancestral domain (Field notes, May 5, 2008).

By chance, I dropped by Mindanawon and was invited to listen to their conversation. "Since November last year when I was hospitalized for pneumonia, I actually don't know what to do with myself. I am banned from carrying a heavy backpack and to go on fieldwork for the

whole year” (January 15, 2008). I remember my mother’s worried look and stern expression before I lost consciousness in the emergency room as she was telling me, “Tama na, Pen. Tama na” (Enough, Pen. Enough). “When I woke up three or four days later, Mama disclosed that each time I would leave with my backpack to go in the field that she would call the Carmelite sisters to pray for my protection” (December 6, 2007). Being banned from fielding and recovering from the effects of pneumonia, I was unspeakably bored and felt languor particularly on hot summer afternoons. My options were to spend time in an air-conditioned mall, watch HBO at home, or go to Mindanawon to hang-out with our Indigenous scholars and drink free coffee from the Jesuit’s rectory just a few steps away from our office. That day, I chose Mindanawon.

My conversation with Paring Bert and Sheena channeled my fielding to “thinking through” what it was like to be in a politicized field of mineral development. I suggested to both of them that Datu Randy and the other Mansakan tribal leaders in their ancestral domain should visit Canatuan in Siocon, Zamboanga del Norte to get a clear grasp of the impact of mining on an Indigenous community. Sheena and Paring Bert positively considered my suggestion. Thus, a meeting was immediately set with Datu Randy to clarify details about such a community exchange. After two postponements, it happened in mid-May. Instead of going to Siocon, Zamboanga del Norte, Timouy Juan Ben Alog would be invited to come to Datu Randy’s ancestral domain in Compostela Valley. Their meeting would be a conversation among leaders about mining and their communities (Field notes, May 17, 2008).

In developing the design of the Conversation among Indigenous Leaders, I initially considered two options. First, Timouy Ben Alog and the invented traditional Subanon leaders, that is the Council of Elders (CoE), and/or some officers of Siocon Subanon Association Inc. (SSAI) officers, who had signed a memorandum of agreement with TVI, would be invited to

travel to Compostela Valley where the Datu Randy's ancestral domain is located. Second, Timouy Ben Alog and the Mamanua chieftain in Taganito, Claver, and Zamboanga del Norte would hold an open conversation about their experiences and insights about how mineral development affected them and their people. I met the Mamanua chieftain during fielding with Cecile, the leader of Xavier University's (XU) research team on mining in Mindanao. The XU team has been assigned to conduct a stakeholders' analysis of a mining site that was at the closure and post-closure stage. Mines at this closure stage can be found in the Surigao Provinces (Surigao del Norte and Surigao del Sur) because this region had hosted mining operations since the turn of 20th century during the American colonial period (Tujan & Guzman, 2002; Abinales, 1998). In 1905, the Americans had enacted the Philippines' first mining law, modeled on the US Mining Act of 1872. It gave private individuals and corporations that have mining claims or permits to own surface and underground land for mineral extraction. This law gave a boost to the Philippine's budding mining industry that relied on US investment and mining technology (Tujan & Guzman, 2002). Companies owned mostly by American soldiers staked mining claims in Baguio, Camarines and Masbate. In Mindanao, C.E. Briggs set up two profitable mining companies, the East Mindanao Mining Company and Surigao Consolidated Mining Company (Tujan & Guzman, 2002). From 1905 to 1908, Surigao made a total revenue of Php 241,336.00, more than two and one-half the earnings of Benguet at P 87,496.00 (Abinales, 1998, p. 21). In 1914, the US Congress issued a decree establishing the Surigao Iron Reservation. A mineral reservation is usually established by the State to preserve strategic raw materials for industries critical to national development, scientific, cultural or ecological value. In 1939, the Philippine Commonwealth government issued Proclamation 391 established the Surigao Province as the Surigao Mineral Reservation (Proclamation 391, s. 1939). Aside from this background, the

Surigao Provinces were among the Philippines poorest provinces (Asian Development Bank, 2009; Juan-Albacea, 2009; Standing with the Poor & the Marginalized, 2012).

When Cecile and I went to Claver, we were appalled to find out that, although it had three mining companies (Taganito Mining Corporation, Platinum Group Mining Corporation, Oriental Synergy Mining Corporation), it was still a 4th class municipality.⁴² It means that its average annual income ranges from Php 25 million or more but less than Php 35 million, which is equivalent to CA\$ 623,373.00 to CA\$ 872,722.00 at an exchange rate of one Philippine peso to .024 Canadian one dollar. There were also other mining companies that were applying for a mining claim (La Salle Mining, North Dinagat Mining, Fe Ligtas Claim, and Ancheta Mining Corporation). Of the nearly 4,000 households in Claver, only 73 households are Mamanuas, the Indigenous group in Surigao and Agusan (Maceda 1954, as cited in Lucero, 1988). They were originally nomadic as foragers or hunters and gatherers, but are now engaging in swidden cultivation, and other types of jobs including mining to earn a living (Lucero, 1988 as cited in Macabuac-Ferolin, 2008). Typically, contemporary foragers live in what are considered marginal areas, which often contain material resources (oil, diamonds, gold) that are in high demand in core areas (Miller, 2017). Highly developed countries seek the natural resources in these areas, leading to conversion of foraging land and forests into mines and plantations, displacing foragers from their land. The consequence of such displacement due to logging and mining in their ancestral domain was that the Mamanuas, according to Lucero (1988 as cited in Macabuac-Ferolin, 2008) were reduced from a

⁴² The Philippines Department of Finance classifies provinces, cities and municipalities based on their average annual income. There are six classifications for municipalities (Department of Finance Department Order 23, s. 2008). A first-class municipality would have an annual average income of Php 55 million or CA\$ 1,367,624.00 whereas a sixth-class municipality would earn at least Php 15 million or CA\$ 372,988.58, which is only slightly higher than Justine Trudeau's yearly base salary.

condition of relative self-sufficiency to poverty and deprivation. This drastic change was also confirmed during our focus group interview with them.

The Mamanua chieftains disclosed to us that they were never consulted when nickel mining started in 1986. It was only in 2000 that the Taganito Mining Corporation started recognizing the Mamanuas when they entered into a memorandum of agreement with the company (Macabuac-Ferolin, 2008). The Mamanua chieftain would be able to provide Datu Randy with some insights into how their lives would change with mining. While some of them found work with the company, their employment has only been seasonal, usually for about five months a year. This was due to their lack of education, they said (Macabuac-Ferolin, 2008). Generally, they were happy with mining because some of them were able to work and that they got to share their incomes with other Mamanuas, most of whom do not have jobs. One of the things that struck me when Cecile and I went to Claver was that the land, according to the Mamanuas we interviewed, was sterile where plants did not grow. It explains their foraging system of adaptation and why they would welcome mining. There was also conflict among the older and younger Mamanuas since the latter find the older tribal leaders to be naïve. The older leaders, they said, were easily enticed with a few hundred pesos in exchange for their ancestral domain and sacred mountain. The younger Mamanuas were also concerned that their elders do not comprehend the adverse effects mining on their land. They also think that the older Mamanuas are being short-sighted in addressing the tribe's poverty, which is through the influx of money (Macabuac-Ferolin, 2008).

As I continued to think through and develop the project design, which I initially dubbed as "Open Conversations among Tribal Chieftains on Mineral Development," I also considered funding and logistical issues. I also drew on my observations when I was still fielding to

understand the consequences of mineral development. From the five case studies that the three Ateneo Universities research group conducted on mining in Mindanao, we had concluded that the sources of conflict in the host communities were varied.⁴³ These sources involved economic, political, cultural and historical tensions, which the entry of mining operations had further exacerbated. I also saw the subversive strategy of “inventing” traditional leaders which paralleled what had taken place in Siocon, a practice designed to delegitimize the traditional and legitimate Indigenous leaders such as in Balabag in Zamboanga del Sur.

“But what stands out to me was that they have nothing against each other personally. They are in conflict because of the entry of outsiders – NGOs, small-scale miners, church, large-scale mining or logging company, government agency or local government unit, politicians” (Field notes, August 30, 2007). I am also cognizant that each Indigenous tribe in the Philippines has its own social and cultural mechanisms for restoring peace and harmony in their communities (Alejo and Sanz, 2009). The Indigenous justice system is anchored in their worldview functions to always maintain or restore harmony, strengthen relationships and instill good values and norms in the community (Schlegel, 1970, 1998 Dumagat, 1996; Cisnero, 2008; Lemanilao, n.d.). It is important for them to have peace of mind, perceived as being free from harboring ill feelings and from any disturbance that affects their state of mind and physical wellbeing (Schelegel, 1973, 1998; Dumagat, 1996; Cisnero 2008). Thus, the Indigenous dispute resolution mechanisms are to ensure a win-win situation that two conflicting parties will agree on so as not to retain any grudge or ill feelings with another. Cisnero (2008) noted that the Indigenous justice system does not distinguish between civil and criminal cases.

⁴³ I was the chief researcher on the collaborative research study on mining in Mindanao.

Thus, when an offense is committed, it is not addressed solely in terms of the offender and offended. Rather, the offense is considered as committed against the whole community, and, if inter-tribal, between communities (Cisnero, 2008).

While fielding among the Subanos, I also discovered that the notion of scale in terms of the magnitude of conflict is always considered relative to the sense of disharmony, instability and disagreement in the community or territory as a whole. In 2004 when the Gukom sog Pito Kodolongan, led by Timouy Lambo, tried to determine the right penalty and fines against TVI for desecrating Mt. Canatuan and for physically assaulting Timouy Ben Alog's daughter, they were using their traditional measures of "bulos" (cloth). Again, in 2007 the Gukom sog Pito Kodolongan summoned TVI to their Indigenous justice system processes, but the company ignored the invitation and the Subanos' gukom processes. The Philippine State may have enacted the Indigenous Peoples Rights Act (IPRA), but the interfacing between Indigenous justice system and the Non-Indigenous (Philippine Government) Judicial System continues to be problematic, especially when it involves multi-national corporations. This failure to negotiate is due, at least in part, to fundamental differences in worldview and the judicial processes of two systems (Table 4-1).

Table 4-2. A contrast between Indigenous justice system and the Philippines' judicial system

Indigenous Justice System	Non-Indigenous (Philippine Government) Judicial System
Communal process with involvement of trusted leadership	Formal process that is run by individuals who have specialized roles

Indirect, triangular, third-party processes of a go-between to save face, reduce threat, balance power differentials and equalize verbal or argumentative abilities	Direct confrontation and direct communication with established rules of carrying out the process
Relational process	Linear process with fixed standards and procedures e.g. one witness, one cross-examination, and one agenda at a time.
Dynamic, rationally-oriented, and directed toward resolving tension in network and toward restoring peace in the community	Structured, task-oriented and goal-directed toward establishing guilt to a disputant to mete out penalties
Involves presiders who are recognized communal leaders or trusted mediators. They are embedded in social networks and remain in relationship with parties in the dispute	Involves a presider who is a technical specialist with a professional, anonymous and impersonal relationship to the disputants.

Source: Linao (2009)

In a report entitled, “Exploring Indigenous Conflict Resolution Mechanisms as Ways towards Achieving Lasting Peace and Development in Mindanao,” Alejo and Sanz (2009, p. 27) indicate that the Lumad (Indigenous) leaders during a consultation had emphasized that “Indigenous justice system will only be effective if Indigenous governance system and their territory are strengthened”. They also have noted that outsiders have brought conflict into their territory such as the armed confrontations of the New Peoples Army and the Philippine military, the encroachment of mining companies and other aggressive development projects (Alejo & Sanz, 2009).

With this consideration, as I also reflected on the results of the case studies, I was convinced that the Conversation Project should attempt to “bring together traditional Indigenous leaders, who have different positions and experience on mining, to converse with an Indigenous community which is in transition and deliberations about whether to allow mining or not in their ancestral domain” (Field notes, July 8, 2008). Most conferences I have attended were either

strongly against mining, organized by NGOs known for oppositional politics, or *for* mining, organized by the business and mining sector. My observations during fielding in attending national conferences on mining, intended for Indigenous peoples and/or non-Indigenous host communities, were exhausting and filled with grand standing.

If we can provide “an open and non-threatening space for sharing honest insights and reflections” (Field notes, August 13, 2008) among Indigenous leaders, it would then be important that “no conventional experts from the mining industry, church or civil society be present during the conversation. All information and knowledge about mining are be drawn out from the experiences of the tribal leaders whose communities have had engagements with mining” (Field notes, August 13, 2008).

The Conversation Project was going to be “experimental and exploratory to be able to develop a methodology and design for action research that is participatory, and for possible replication in other areas” (Field notes, August 13, 2008). Thus, the output and outcome of the open spaces for conversations among Indigenous leaders would be such that they could “share their insights and reflections freely” and “develop a research methodology that is participatory and sensitive to Indigenous culture” (Field notes, August 13, 2008). Mindanawon’s Indigenous scholars should also actively participate in the Conversations, and the facilitator of these conversations would also be Indigenous.

My practical question was this: where I would be able to find a funding agency which would be able to see the value of an experimental methodology of creating open spaces for conversation among Indigenous leaders, who not only have different positions on mining, but are also in conflict with one another? Would open conversations among Indigenous leaders be able to mend relationships and forge peace among them? Would these Indigenous leaders even accept

an invitation from Mindanawon (Field notes, August 13, 2008)? What if they bring guns with them when and if the conversation ever takes place?

In thinking through these questions, it became apparent to me that the conversations should take place in Mansaka territory at Datu Randy's. The leaders should also have to be flown to Davao City so the possibility of them bringing unlicensed firearms would be ruled out. Once we were able to secure a small fund from a funding agency, Lucy, an Agusanon-Manobo who also works for Mindanawon, and I left Davao City first thing in the morning and headed for Datu Randy's residence in Tagum City to formally seek his support for the open spaces for conversations among Indigenous leaders and that it will be hosted in his territory. It so happened that Lucy is also the younger sister of a chieftain in Agusan whom Datu Randy personally knows and regards in high esteem. Upon seeing us at his doorsteps, he warmly welcomed us and immediately rummaged through his cupboards. We told him he should not bother in providing us breakfast since we have already eaten somewhere before going at his place.

To my surprise, he brought us a bottle of Indigenous wine which was called "biasi". It was made of five different roots of plants, he said, which are known to have healing and medicinal properties that give vigour and vitality. When Datu Randy briefly left us to get some glasses from his kitchen, Lucy quickly explained to me that the wine he just brought for us was reserved only for special guests. It was easy to deduce that Datu Randy wanted to extend his hospitality to the younger sibling of a highly respected Indigenous leader in Agusan del Sur. When he came back to the dining room, Datu Randy also brought us a honeycomb with bee larvae.

“Mao ni ang chewing gum sa mga Lumad” (This is the Lumad’s chewing gum), Lucy explained to me in Bisaya as she took a portion of a honeycomb and held it up for me to see before putting it in her mouth. She then took her glass of biasi and drank it.

“Sulayi” (Try it), Lucy encouraged me to take a bite of the honeycomb. I took a small portion of the honeycomb and saw that it has several white larvae in it. The honeycomb felt like sponge in my fingertips which I think why Lucie said that it is their chewing gum. I quickly shoved it in my mouth and also gulped down a glass of biasi. It was not as bad as I thought it might be, but I must say the honeycomb’s texture and the awareness that it also has larvae made me squeamish inside, which made me pour another glass of biasi. Then we began to talk about where we were at regarding the open spaces for conversations. However, in quickly drinking two glasses of biasi made me heady so that it was a struggle to keep track of our conversation; more so, when I found myself enjoying the honeycomb, chewing it and drinking biasi at the same time. Datu Randy suggested several possible venues where the conversations might take place, which we agreed to conducting an ocular inspection first since we were not familiar with the sites that he had suggested.

At 7 am, we concluded our meeting with Datu Randy in a state of intoxication. Personally, it was a wonder we boarded the right public transport heading back to Davao City and not somewhere else. That was because the next thing I knew, the driver was yelling at Lucy and me telling us to wake up because we were the only ones left in the van.

Part I - Intended and Unanticipated Consequences of Open Conversations

Figure 4-5. Map of Compostela Valley
Source: Provincial Government of Compostela Valley.

4.8.1 Field Notes, March 29, 2009

Day 1 – March 25, 2009

7:15 - Left for Nabunturan

12:30 – Visited Provincial Capitol of Nabunturan to view its solidarity ring which weighs about 2 kilos of gold that was mined in Diwalwal.

- Timuoy Ben Alog jokes that Siocon has a “carabao” (water buffalo) of gold in front of the Siocon Paradise Gym.

6:00 – Ritual began

- Introduction – description of place, origins, tribe

9:00 – TAPS

Day 2 – March 28, 2009

7: 15 – Left for Mainit in Maco, Compostela Valley and Masara

9:15 – Mainit resort, Brgy. Mainit in Maco, Davao del Norte

- Visit Apex Mining Corporation

Day 3 – March 29, 2009

8:30 – Plenary session

4:00 – Travel to Mindanao Training Regional Center (MTRC), Davao City

4.8.2 Day 1 - Chicken/Fowls and Omens

Datu Romeo, a Mansaka balyan (shaman) conducted a ritual on the first day at 6 pm.⁴⁴ In front of everyone who was gathered in the hall, a chicken was slain by cutting off its head. Immediately, its headless body flapped around until it laid to rest. Then, Datu Randy and Datu Romeo looked at how the chicken died on the ground. Its head was not pointed to the east, which means that the meeting will be good, nor to the west which means bad fortune. Rather its body and head were pointed to the north. It means that there will be obstacles (“babag”). Bo-I (Woman chieftain) Tunas To Bonati, the facilitator of the Open Spaces for Conversation, interpreted this that whatever our goal was, it would mean that our journey would be long (Field notes, March 29, 2009).

A black bird flew across the hall during the ritual. Lucy and Lovely noticed Datu Onlos’ reaction – that he was nervous, afraid. It was not an ordinary bird that flew across while the ritual was going on, Lucy said. Mindanawon’s Indigenous scholars have taken leadership of the whole

⁴⁴ The Mansakas are the Indigenous tribe found in Davao del Norte and Compostela Valley/

affair, from documenting (both in video and written notes) to ensuring that our schedule was kept on time, to providing logistics etc. Only three present were non-Indigenous – Paring Bert, Perpy and I. Lovely, who is a Mandaya and thus can fully understand what was being prayed by the baylan related that the prayer was about our safety.⁴⁵ Norquis, a Kalagan, who can also understand the words spoken felt that it was “ngilngig” (hair-raising).⁴⁶ She said, that they (referring to Datu Randy and the Baylan) were afraid of something because of the omens during the ritual.

The conference hall was nothing that we were used to. It was made of coconut lumber that could accommodate at least 200 people. But the area was very open. It is within a hot spring resort and motorcycles can come in and out, distracting us from our conversations.

4.8.3 Day 2 – Masara, Compostela Valley

The second day opened with a ritual called *panguyab* asking Magbabaya or Manama for a safe and successful field trip. It was held in Mainit Falls. At the gate of Crew Minerals Philippines Inc.- Apex Gold Project operations in Masara, Compostela Valley, the group went through the usual security checks that included instructions to turn off videos and digital cameras. Datu Randy Onlos had already made initial contacts with the company pertaining to the group’s visit through his brother Datu Rolando Onos, Masara’s tribal chieftain. The group had expected that we would be able to have a plant visit as planned (Field notes, March 28, 2009).

However, as it turned out, we were not allowed to have a mine tour inside the plant’s premises. I was sitting beside Datu Randy when the security manager talked to him. We were inside the canteen and had just finished eating our snacks. When the security

⁴⁵ The Mandaya is the Indigenous tribe found in Davao Oriental and Davao del Norte, Mindanao. Their name means “the first people upstream” (www.ethnicgroupsphilippines.com).

⁴⁶ The Kalagans are the Islamized Indigenous people in the Western part of the Davao gulf area in Southern Mindanao (www.ethnicgroupsphilippines.com)

manager came in, his body language showed a hesitation in his gait. As he came in our direction, he asked, “asa man ta mag-istorya?” (where do you want us to talk?), addressing Datu Randy, who replied, “dire” (here).

The security manager was poker faced, though it was clear to me that we are going to be denied entry. As the security manager pulled a stool to sit on, he broke the news that the RM (regional manager) and the COMREL (community relations) manager are out, and they have not been informed about it.

I looked at Datu Onlos as he took in the news. He clenched his jaw, as he leaned back at the counter and rested his elbows on the surface. Then, he replied, “grabe na ang violations ninyo sa amo-a. Amo-a ning yuta, amo-a ning ancestral domain, dili mi ninyo pasudlon” (you have gravely violated us already. This is our land. This is our ancestral domain and you are not allowing us to enter).

The manager explained that they needed a letter and that they have to be informed first. He said that they are also concerned about the security of the visitors for they need to be issued with hard hats, etc. Datu Randy responded that they “do not need written documents because for the Mansakas, a verbal agreement is considered binding and final” (Field notes, March 28, 2009).

Datu Randy spewed out in frustration that the tribal leader in that place, who is his brother, tends to... “sakay lang sa tama kung asa makapabor didto sya” (go with the flow depending on where he finds favor) (Field notes, March 29, 2009). Later when we were back in Toyozu Resort, Datu Randy apologized to the group for what had happened at Crew Corporation. He shared that without his knowledge and consent, his siblings recently signed a memorandum of agreement with the company, whose mining permit had already expired in

2004. Now they will have to wait another 20 years before they will be able to take control of their ancestral domain and mineral resources.

At that point, I stood up and moved away from Datu Randy and the manager and walked towards the water dispenser, which was tucked in a corner across the canteen. There I took a good look at what was going on and was able to scan the faces of the tribal leaders, who were with us: Tunas to Bonati, Timuoy Ben Alog, Tumagong Raul Liga, Timuay Lodel Mandin, and the Subanon women leaders from Canatuan sent by TVI.

Nida (not her real name), one of the Subanon women leaders of Canatuan shared this with me when we were walking out of the canteen: “Nasakitan pud ko. Gabati pud nako ang nabati ni Datu Onlos” (I also felt hurt. I felt what Datu Onlos felt).

Timuoy Ben, on the other hand, was matter of factly saying that the company can do that because it has its own policies. Later that night during the plenary conversation, Timouy Ben shared his own experience of being banned from his ancestral domain, and of being isolated. Yet, he remained with his position. Soliling Orlando Malang, Alog’s deputy, later also disclosed to the group that they are already thinking of compromising with TVIRDP, which has an IP royalty of P 34 million in consideration of the losses they have suffered. They are also considering the possibility of entertaining other mining investments in the area.

We went back to the rented vans parked at the entrance of Crew Corporation. Everyone was quiet with their thoughts as we drove out of the compound as we headed back to Manit Falls. Datu Randy sat at the back of the van still visibly mad. Unplanned, we stopped over at the site where at least 24 people were killed in September 2008 landslide in Masara. Apex Mining Corporation and Crew Gold Corporation have ongoing operations in the area (GMANews TV, 2008; Alyansa Tigil

Mina, 2008; Sun Star Manila, 2008). Until the van driver told us, we had no idea that we were actually in that mining village, which had been covered by mud. Instead of following the convoy ahead of us, Timouy Ben Alog and Timouy Lodel Mandin requested the driver to stop and we all got out of the vehicle. Timouy Ben walked up an inclination as we followed him. He then stood still on a mound and kept silent. As we all gathered around, Timouy Ben, in his gentle voice, uttered a short prayer as he looked at the ground. Timouy Lodel followed suit.

I, too, prayed for the repose of the souls who died in Masara that day.... “May eternal rest be grant unto them Oh Lord, and may perpetual light shine upon them. May the souls of the faithful departed, through the mercy of God, rest in peace. Amen.” It was a clear, bright sunny day but it chilled me to my core that we were on top of a village that was thriving and alive just a few months before. Everyone in the van was aware that there were many landslide incidences that had already occurred in Compostela Valley, which is a mining area, and that several people had been killed (Pagulong, 2012). We also realized that none of the news reports that were broadcasted in the past have connected the recent disasters with an environment that was exploited and abused by dynamite blasting of both small-scale and large-scale mining operations, and the logging operations that denuded Compostela Valley’s forests in the past.

At lunch time, during Day 2, we were back at Mainit Resort. I was eating in a hut with bamboo table beside the hot spring, seated with MacMac, a Bagobo scholar of Mindanawon, who was daintily eating his packed lunch of pansit noodles, rice and chicken. We were talking when we noticed that this particular red feathered rooster was straining its neck to see what was inside Mac-Mac’s packed lunch. He shoved the rooster away and it scurried away, but just a few minutes later, it jumped and stole Mac-Mac’s fried chicken.

I was laughing in amazement with that bold act as Mac-Mac and I watched the renegade rooster run with its loot towards the entrance to eat it. That rooster did not lose any time. He went around us and immediately pounced on Mac-Mac's fried chicken, not knowing that it was eating one of its own.

Tunas To Bonati, who was seated across from us, uttered that it was a bad omen. Later, she confided to me that upon seeing the rooster's renegade act, she knew that someone from the group would be eating his own words. That night Soliling Orlando Malang announced that they will be negotiating with TVI by recognizing its mineral production sharing agreement, which they had contest. In 2007, at the start of the human rights impact assessment, the Subanos filed a case against the mining company in the regional courts questioning TVI's free, prior and informed consent processes. The Task Force Canatuan has yet to know about this change in decision. They will have a meeting on April 8, a little more than a week from today.

4.8.4 Day 3 - The Two Chieftains from the Two Desecrated Mountains of Mindanao

Last night (Day 3) at the Mindanao Training Regional Center (MTRC) in Bajada, Davao, City I sought out Tunas To Bonati, who was about to retire for the night, to have a "chieftain-to-chieftain" talk with Timuoy Ben when the Open Spaces were concluded.⁴⁷ She was the facilitator and the only woman chieftain present during the conversations among Lumad leaders that was held in Compostela Valley, Davao del Norte Province. She had agreed immediately to be the facilitator after I told her about the rationale for the Conversation.

In the 1990s, Tunas To Bonati, was and continued to be "one of the more outspoken leaders of the Sinebadan Bagobo Mekatanod (Association of Enlightened Bagobo). She had sent

⁴⁷ Bo-I in Manobo language means woman chieftain.

out the earliest warning signals on the dangers of the (geothermal) power plant” (Alejo, 2000, p. 48), which the Philippine government was constructing in the 1990s in Kidapawan, North Cotabato. Mt. Apo is sacred to several Lumad tribes who are located within and around Mt. Apo. The significance of that chieftain-to-chieftain talk between Alog and Tunas To Bonati was that both were the outspoken Lumad leaders of two landmark cases in Mindanao and national development, both of which are extractive. Each leader has witnessed and experienced community division and conflict, and the drastic changes to their environment and communities. While other Manobo tribal leaders, who initially opposed the geothermal project in Mt. Apo had eventually agreed to negotiate with the government, Tunas To Bonati continued to oppose it. Due to her campaigns against the government’s energy project, at the local and international levels at a young age, she became adept in straddling both Indigenous and mainstream society and governing her people. She also has led her tribe in dealing with the consequences of geothermal project. During the Open Spaces for Conversations, her expert facilitation made Timouy Lodel Mandin remark in Bisaya that although there were no “ice breakers” in any of the sessions, no one was sleepy. The leaders also want to keep on talking. “Kay tungod pud siguro way agenda” (It is also probably because there was no agenda), Lodel surmised.

Timuoy Ben, who was wearing a black bonnet with the name “Banawe” knitted in white yarn on the front side, and a green tie-died shawl wrapped around his neck, confided to Tunas To Bonati that he can’t sleep and would wake up at night sweating. He seems undecided still, but there was already (it seems) an agreement with his group that they will be compromising and negotiate.

Timuoy Ben said that it was not yet the right time “na i-bulgar to pero nag-una naman to (referring to his Soliling Orlando Malang). Mao gisigundahan nalang nako to (It was not yet the

right time to disclose their intentions, but Orlando declared it ahead of time” [during the Conversations] so I just seconded what he said).

He then explained his side of being empowered, of being able to govern his ancestral domain because all of his “sakup” (people) are already with TVI.

Timuoy Ben stressed that he remains anti-mining, but he has to compromise and negotiate because he is losing his people. Besides he will only be recognizing TVI’s 508 hectares operations. He also mentioned that there is also coal mining already in the area.

Tunas To Bonati then spoke. She asked about the quality of life of those who have negotiated with TVI and compromised. She has mentioned that based on her own PNOC (Philippine National Oil Company’s Geothermal Plant) experience that the families who agreed and pushed for PNOC’s operations experienced a lot of “gaba” (comeuppance or curse depending on how it is used). Most of them may have beautiful houses compared to most of them, but their children were not able to finish school, They also suffered accidents and deaths. The two leaders who signed the memorandum of agreement with PNOC died shortly, Tunas To Bonati shared.

Timuoy Ben replied that he assessed that his life and the difficulties he was experiencing are the same as with the Council of Elders, who are receiving monthly honorarium from TVI. He also noticed that he would buy four sacks of rice monthly on credit, yet still he manages to pay it on time.

Timuoy Ben cited the case of Jolito, leader of the Siocon Subanon Association Inc. who dislodged him from leadership. “Karon mangguna na lang siya” (Now he is earning his living as a gardener). When Tumangkis was the president of SSAI, he had a car, and he had money. But he was replaced by Bonifacio Patoh.

Tunas To Bonati then shared her thoughts based on her PNOC experience. She said that her area may not be directly within the PNOC area. But she knows how it is when your “sakup” (people) would leave you.

“Pero unsa pud kaha ang dignity sa baruganan? Kung ikaw munegotiate kanila, kina pa ang ilang kahadlukan? Kinsa pud ang daganan sa imong mga sakup kung ikaw mu-apil ka na nila?” (But what about the dignity of your principles and stand you made regarding TVI mining? If you are going to negotiate with them, who are they going to fear after? Where would your people go when you also join them?)

“Sa amo bitaw, ang mga nibali ug baruganan karon ginakataw-an nalang. Katong ni pirma sa MOA wala na silay choice kung dili mudikit sa PNOC. Pero ikaw man ang mas nakahibalo sa inyong kahimtang Timuoy” (In my area, those who flip-flopped and changed their stand are now laughingstock. Those who signed the MOA now have no choice but to align themselves with PNOC. But you are the one who knows best your situation).

4.8.5 The Unintended Consequence of Collaborative Research

Before the Open Spaces for Conversation began, two traditional Subanon leaders, in the Municipality of Bayog, Zamboanga del Sur province where TVI has been conducting exploration and seeking to operate in the area, had already started to talk with each other. Lodel Mandin and Raul Liga were leaders of two Indigenous Subanon groups in Bayog, where at that time of the three Jesuit Universities had been conducting research on mining in Mindanao. They were staunchly opposed to each other until they read the case study that was conducted by the Ateneo de Zamboanga University (ADZU) research team. ADZU was assigned to conduct a stakeholders analysis during the exploration stage of mining where there was an overlap of small-scale mining and large-scale mining claims in the area.

Based on Regie Junio and Marlon Araneta's (2008) report, I noted the similarities between Canatuan and what was going on in Bayog where the Subanos were also split between two groups: the Bayog Association of United Subanos (BAUSO), spearheaded by Raul Liga, and the Pigsalabukan Gukom de Bayog (PGB), led by Lodel Mandin. Each has lodged a separate application for a Certificate of Ancestral Domain Title (CADT) in Bayog (Araneta and Junio, 2009). They also have different views and political alignments in relation to mineral development. The former based its legitimacy as an Indigenous group that is registered with the Securities and Exchange Commission, while the latter's claim for legitimacy was based on Subanon customary laws and traditions. On the second day of the "Panag-Ambit", both leaders "sought together a special meeting with Mindanawon on March 29, 2009" (Field notes, March 29, 2009).

Before everyone was awake on our last day in Toyozu, Paring Bert and I listened intently to Lodel and Raul. They disclosed that because of the collaborative mining research of the three Jesuit Universities that was conducted in their area in 2007, they were able to assess their situation objectively. When they read the research output, they also realized that various development interventions had brought their groups into conflict with each other, and that personally or culturally they have nothing against each other. But one was pitted against the other (Field notes, March 30, 2009).

It took them a year after reading the report to have a formal meeting. This took place only last March 6. They now would like to pursue a track that will unify their two groups and they are asking Mindanawon's help on this matter. The two tribal leaders were very circumspect in approaching their dispute resolution mechanisms, each knowing that the members of his respective group were deeply prejudiced against the other. Lumigui and Manda were also apprehensive that they would be seen in a bad light if they are doing it by themselves as leaders (Field notes, March 30, 2009).

Paring Bert, who has conducted an ethnographic work among the Manobos who were affected by the Philippine National Oil Company's (PNOC) geothermal plant in Kidapawan, in Northern Cotabato, suggested that they "identify an internal cultural resource that will bring together all their members" (Field notes, March 30, 2009). He cited the case of Mt. Apo wherein history, genealogy and cultural energy were used to bring together the memories, kinship and appreciation of their cultural energy (Alejo, 2000). They thought of the "buklog", which I had witnessed once in Zamboanga del Sur in 2004. The "Buklog" is the "most elaborate and expensive socio-religious festival" (Berdon-Georsua, 2004, p. iii). It is conducted to gain or regain the favor of the gods in a specific event in which the entire Subanon community takes part. It is celebrated as a thanksgiving for a bountiful harvest, for healing, or for prestige for a new leader. I totally agreed with them, seeing already how the ritual could start the process of reconciliation among the BAUSO and PGB members. It would however require extensive preparations and cooperation from everyone.

Paring Bert and I also suggested that the Subanos of Bayog first need to identify among themselves what they need and the kind of intervention that outsiders like Mindanawon will be able to bring in. "You should tell us first what you want to do and not the other way around," Paring Bert said, "and we will take it from there" (Field notes, March 30, 2009). We committed to continue dialoguing with them as to how and what contributions all parties may be able to provide in holding the buklog in Bayog, considering our limitations in terms of logistics and monetary resources (Field notes, March 30, 2009).

In September 2009, two Mindanawon Lumad scholars and I witnessed the celebration of the Buklog de Pangamo among the Subanos of Bayog, Zamboanga del Sur. Maida, who was one of our IP scholars, said that when the conversations were conducted last March, it seemed just a

small ordinary thing. “Ing-ani man diay kadako ang nabuhat ato (We had no idea that this is how big we have done for this community),” Maida stated (Field notes, October 9, 2009).

The buklog was a unique mechanism for the restoration of community relations and pre-empting conflict that may arise in a resource conflict context. It is the highest Subanon ritual that entails several meanings. Specifically, the “Buklog de Pangamo” was conducted to appeal to the spirits that the aspirations and dreams of the Subanos in Bayog – securing their ancestral domain through CADT, strengthening of Subanon governance in the community, and the restoration of relations between the Bayog Association of Subanon (BAUSO) and Pigsalabukan Gukom de Bayog – will be achieved successfully (Field notes, September 27, 2009).

The buklog had helped them see what they have in common. Preparing for it was also a process of reconciliation since it was a shared activity. Neither group has experienced a buklog for a long time. In the case of PGB, which is led by Timuay Manda, the last time they were able to hold was in the 1950s during the time of his father. The buklog reminded them of their cultural strength, which also opened a venue for them to work out their differences and relationship, and to openly discuss contentions issues such as representation in claiming the ancestral domain, policies regarding outsiders as Subanon and without competing and conflicting as opposing interest groups (Field notes, October 1, 2009).

They assessed that the Buklog was instrumental in gaining the support of the National Commission on Indigenous Peoples in fast tracking their CADT application. The barangay and LGU officials also now recognize them as legitimate traditional leaders. It also encouraged the youth to be interested in their culture and traditions. They also acknowledge Mindanawon’s support in bringing their two groups together (Field notes, October 1, 2009).

Timouy Manda and Tumangong Raul have also expressed the need for documentation. Specifically, they want to publish a book that tells their story. That would be about the history of the Subanons of Bayog, that there are two different Subanon G'taw – G'taw Dibaloy and G'taw Tasan – and how the Subanon of Bayog were divided, what the process of reconciliation was, and what they would want to happen in the future. They would want Mindanawon to help them in getting the resources for book publication since we have also been publishing Indigenous materials in collaboration with Indigenous communities.

In journeying with the Subanos of Bayog in September 2009, I once again got pneumonia for almost always being soaked in the monsoon rains.

“It was just so cold, and it was also raining hard not to mention that we keep watch of all the rituals by documenting on video and writing down notes, and also because the bolyan has just no concept of time. Mao bilar ming tulo for one week (That is why we barely sleep). I have to remind myself that at least we did something right. Like what Gonotan Lodel Mandin and Tumangong Raul Liga said, there were already several attempts and initiatives taken to unite the two groups. These include the National Commission on Indigenous Peoples (NCIP), the Local Government of Bayog, Catholic Assistance for Overseas Development and the Pigsalabukan Bansa Subanon (PBS), which was headed by Timouy Ferding who is one of the timouys in the Seven Rivers in Siocon. But these were dialogues which Lodel and Raul say as “daya ug lugi pa mi (unfair and at our expense)” (Field notes, October 9, 2009).

On hindsight, holding the buklog in September 2009, pre-empted possible conflicts that may arise in the future. This was because the two Subanon leaders of Bayog used it as an occasion to present themselves to the local government unit, other government agencies and politicians, who, in collusion with mining companies, could invent traditional leaders as what we had seen in Siocon (Field notes, April 19, 2010). Their application for ancestral domain was also ascertained because the two groups had agreed to have only one head claimant in the person of Timuoy Lodel Mandin instead of Tumangong Raul Liga. The latter holds a lower position in the

hierarchy of bogolals (traditional leaders) as compared to the Timuoy, who is recognized as a community leader through bloodline, leadership qualities and virtues. BAUSO led by Raul Liga and PGB by Lodel Mandin have also settled their respective areas of jurisdiction such that the former will manage six barangays while the latter will take care of the 14 remaining barangays (Field notes, February 2, 2010).

These were accomplished by using the Subanos' cultural resource of the Buklog which enabled them to restore their relations. Admittedly, this is far from a fairy tale story since they have yet to settle issues pertaining to development. But spaces were opened for dialoguing and collaborating between the two groups.

Following the Buklog in September 2009, the Gampang ritual was held in the village of Depore in Bayog, January 29 to 30, 2010. This ritual gathered anew and reaffirmed what was agreed and established during the Buklog, with the hope that it will strengthen their Subanon governance over their ancestral domain. Mindanawon's young Lumad scholars presented to the Subanon leaders and communities, the LGUs and other relevant government agencies in Bayog, the video documentation which recorded the traditional leaders' peace agreement. That presentation was intended for validation, as a strategy to pre-empt outsiders' interventions such as inventing traditional leaders, and as a reminder to the Subanos of Bayog about the agreements that their traditional leaders had made in September 2009 (Field notes, February 2, 2010).

4.9 Vignette 9 - Fielding (2009)

Part 2: Pakighinabi sa Canatuan (The Conversations in Canatuan)

On November 22, 2011, three years after the Open Conversations was held, while encoding my March 29, 2009 field notes from that gathering, I was again confronted with my

ethnographic dilemma in the field. Was I right in not divulging to the support group (Task Force Canatuan) Timuoy Ben's planned negotiation with TVI at that time? Did I do the right thing in not forewarning the NGOs of what was about to come?

Days before the Open Spaces for Conversations, the Gulang Gukom had disclosed to me that TVI had sent him an emissary, who relayed to him the company's willingness to recognize

Juan Ben Alog as the rightful leader of Canatuan in "exchange for something, which will be revealed in due time" (N. Lambo, personal communication 24 March 2009). I asked him at that time what he thought about this new development. Gulang Gukom Noel Lima assessed their situation saying,

"Dako na ang kapildihan (sa mga Subano)....Guba na ang Canatuan. Ang TVI dili mapahawa mintras nay mina diha. The government asserts na ligal ang TVI. Sa Subanos, it's absolutely iligal. Lahi nagadawat sa bahin (royalty).... The sacredness of Canatuan wala na. Kami mga descendants of Timuoy Manglang dako ang pagrespeto ana. Sad to say, sad to know gibalewala nila ang sacredness sa Canatuan sa CoE.... (The Subanos have lost immensely ...Canatuan is now destroyed. TVI will not leave as long as there are minerals there. The government asserts that TVI is legal. To the Subanos, it is absolutely illegal. The wrong people are also receiving royalty. The sacredness of Canatuan is gone. We, the descendants of Timuoy Manglang, have great respect for the mountain. Sad to say, sad to know, the CoE ignored Canatuan's sacredness (N. Lambo, personal communication, 24 March 2009)."

Timuoy Lambo made me promise that I would not tell anybody about these negotiations. "I have divulged this only to you. Aya na ibulgar unless agreement will be finalized. If magkasinabot... happy na ang gulang gukom kay marecognize ang traditional leadership ni Ben Alog (I have divulged this only to you. Don't reveal this unless an agreement is finalized. If both parties are able

to agree on their respective terms, I'll be happy as a Gulang Gukom because Ben Alog's traditional leadership will be recognized (N. Lambo, Personal communication, March 24, 2009)."

That moment, I disclosed to Gulang Gukom that in July 2007, Timuoy Ben Alog had asked me to talk to Atty. Tony Lavina, Dean of the Ateneo School of Government, if he could help in possible negotiations with TVI. However, a week later after our conversation, an NGO representative of one of Canatuan's support group informed me that they are going to Geneva to file their complaints against the Philippine government and the mining company at the United Nations Committee for the Elimination of Racial Discrimination (UNCERD). I also told the Gulang Gukom that I was only able to talk to Tony Lavina in December 18 that year when the mining research team of the three Jesuit Universities presented the case studies in Manila. Lavina was open to the possibility. But I was unable to talk anymore to Timouy Ben about his request especially when I saw the shifting conditions that he and his council of leaders were going through. The Gulang Gukom simply listened and took in what I had just told him.

Months before, through texts messages, I had been asking members of the support group about this piece of gossip that Alog's group would be negotiating with TVI. I had not been in the area since November 2007 when I had come down with pneumonia. From my standpoint at that time, the support group has the "pulse" of the community and of the whole situation since they have spent more time in the community. Over the phone, the Gulang Gukom requested me not to say anything until everything had been settled. During the Open Spaces for Conversations that Mindanawon held in Toyozu in Nabunturan, Compostela Valley, Orlando announced that they are going to recognize TVI's mining operation in Canatuan.

I know my troubling question is already moot. Two/three years later, by 2011, Timuoy Ben seems to be content now with their relationship with TVI based on the press releases and

some tidbits of information I received from contacts in the field. The anti-mining campaign has suffered a huge setback because of the Canatuan case with Timouy Alog now attending conferences of the mining industry. In 2010, he also led “dozens of Indigenous peoples (IPs) communities in thanking outgoing Philippines President Gloria Macapagal-Arroyo for her active promotion of mining, a major component of her Sustainable Natural Resources Legacy...” (TVIRDP, 2010). He also declared that he came to know of the “good things that responsible mining can bring to our village. TVI(RD)’s operations have tremendously helped in the building of schools and in the promotion of livelihood for us Subanons” (TVIRDP, 2010).

I recalled that one day in May 2009, I woke up scared for the Subanons prompting me to text Timouy Lambo in the wee hours of the morning. I told him what I saw in my dream that Subanons in Canatuan were all devoured by a black wind which was why I woke up in my sleep. He replied, “what you dreamt was scary. But as of now, Timouy Ben Alog and his people are still doing good” (Field notes, May 18, 2009). He made me promise that if I will see him in a dream like that, I should tell him right away. “We, Subanons, are afraid of our traditional beliefs,” the Gulang Gukom Noel Lima explained (Field notes, May 18, 2009).

Would it have changed the course of history if I had told the member organizations of Task Force Canatuan early on of this coming decision? In the process of my fielding, I have worn various hats in response to the situations and conditions at hand. At some point in wearing different hats, the boundaries had become blurred, which brought me intellectual and emotional confusion regarding my work and research, which I would view as a *journey* where I tried to walk alongside the Subanons as best as I can. Perceiving my fielding (i.e. in research, advocacy, program development) as a journey had served to break an impasse. It usually occurs when my fielding forces me to go inward as I perceive the politics that were being played out by actors, the unpleasant information I gathered

from the ground, my unarticulated opinion regarding decisions that were being made, and when I question my motives. It brings me to a point where I would ask myself - am I doing the right thing? Am I taking the higher ground? How should I frame this?

By 2011, now removed from the context caused me to reflect about the series of purposive actions that I had and had not taken. Did I do the right thing? Even asking this question is not as simple or straight forward as it might seem, since, as I reflect on the web of consequences of action (and inaction) that I had taken, I am aware that these melded also with other actors' purposive actions.

4.9.1 Excursus: The Non-Government Organizations as Contextual Actors

This section of Fielding 2009 is an excursus. It is both an overview and a history of NGOS in conjunction with the Canatuan case. It presents their positionality in relationship to leadership in relation to the protest against TVI mining and the Philippine State's mineral liberalization.

In August 2009, five months after the "Panag-ambit sa Kasinatian" (Sharing about Experiences), the open spaces for conversations among Lumad leaders about their experience with mining, I found myself at Poduan, Siocon Municipality. There in a tribal hall that was hurriedly constructed beside Timouy Ben Alog's house, he, the Gulang Gukom Noel Lima and several members of the Gukom sog Pito Kodolongan (seven rivers) now stood side by side with TVI's top executives shaking hands with each other with wide grins on their faces. All this was taking place in front of members of the media, most of whom were invited and perhaps paid for by the company's public relations arm, and who are flashing their cameras. The contrast is marked. For over a decade, Timouy Ben Alog and his "sakup" had contested the mining claims and operations of Canadian-owned TVI Pacific inside the Subanos' ancestral domain, and now they have just made amends with the company.

Inside the tribal hall, there were designated tables for the mining executives, the members of the Gukom sog pito kodolongan led by Timuoy Lambo, and government officials. There was no table set for non-government organizations. They were dispersed among the onlookers outside the tribal hall, which was enclosed by a parapet allowing those from the outside to also participate and witness the events. Representatives from the various NGOs that comprise Task Force Canatuan (TFC), a coalition of NGOs that have been against TVI mining operations, were present including Alyansa Tigil, Mina's top honcho.

The NGOs have figured prominently in the anti-mining campaign in Siocon. TVI encroachment in Canatuan so direly affected the small-scale miners that their leader sought the help of the nearest Catholic Church in Ipil then led by Bishop Antonio Ledesma. Because of the territorial jurisdictions of the Roman Catholic Church, the Ipil Prelature had to refer the small-scale miners to the Diocese of Zamboanga del Norte which is headed by Bishop Manguiran, a staunch environmentalist. Through him, the NGOs were able to connect and join with the Subanos and small-scale miners in their struggle with TVI.

From the exploration to the operations stage of TVIRD's mining (2004-2008) that is, up to the completion of the extraction stage of the oxides gossan ore in 2009, the Subanos who are with Timuoy Ben Alog were closely linked with the NGOs, a mixture of IP rights advocates, development agencies, lay church workers, and peoples organizations. All are lumped together and generally referred to as "NGOs" in their common stand against mining. This make-shift coalition is rather ticklish because, as Srinivas (2009) has noted, "there is no single authoritative understanding of terms such as *third sector*, *NGO*, *NPO*, *civil society*, despite their common and often synonymous usage" (p.621). What is clear is that NGO is catch-all term that "encompasses all organizations that are neither governmental nor for-profit" (Livernash, 1992, p. 14). They

may be small or large, secular or religious, either donors or recipients of grants and donations from members, the public or development agencies (Gardner & Lewis, 1996). However, failing to make distinctions among the various strains of NGOs appears to contribute to a tendency to depoliticize popular organizations and politicize development NGOs (Pearce, 1993).

NGOs and development are closely intertwined. NGOs are both agents and subject to power politics in terms of how they control and allocate resources, ideas and activities. They continually seek legitimation for their existence, convincing clients and supportive stakeholders of their trustworthiness and relevance. The NGOs are also both products and actors in the interplay of international, national and local development and politics. They make ideological choices and play political roles (Hulme & Goodhand, 2000). Development, on the other hand, is an “enormously powerful set of ideas which has guided thought and action across the world. It involves deliberately planned change and continues to affect the lives of many millions of people across the world” (Gardner & Lewis, 1996, p. 2). Thus, the role of NGOs can be viewed in two ways. It is either an alternative to neoliberal development ideas (Escobar, 1995), or an expression of the hegemonic idea of neoliberalism. NGOs are crucial to neoliberal policies because they fill in the gap in services that were left in a vacuum by states that comply with neoliberal prescriptions of development. Also, NGOs contribute to strengthening civil society, which is conditional to attaining democracy (Putnam, Leonardi & Nonetti, 1993; Hilhorst, 2003).

There are several types of NGOs. The most common four types are:

- a) grassroots NGOs that are either located in urban or rural communities,
and mostly membership-oriented;

- b) service NGOs that support the development of grassroots groups. Some of these service NGOs are a by-product of the development of local groups into regional or national federations while others are non-member groups that serve at the regional or national levels;
- c) some regional, national and international NGOs work in specific areas such as development, human rights, environment, disaster relief, and family planning. They also have specific emphasis such as fieldwork, legal defense or policy research;
- d) many NGOs also form national, regional and international networks and coalitions (Livernash, 1992).

NGOs are capable of democratizing development, reconstructing or constructing civil society, acting as social mobilisers, delivering services more efficiently than the State, having flexibility, showing greater capacity for innovations and closer identification with the targeted sectors of aid, and contributing to strengthening the development model offered by the private sector (Pearce, 1993).

In the Philippines, the role of NGOs in the development process has been stipulated in the 1987 Constitution, which encouraged their growth and proliferation. The country is said to have the largest NGO density in the world (Hilhorst, 2003). In her book, *The Real World of NGOs*, Dorothea Hilhorst wrote:

“Philippine NGOs work on socioeconomic development, community organizing, political campaigns and advocacy, arts and drama, research and publications. They are concentrated with issues of poverty, human rights, justice, environment, gender, ethnicity and conflict resolution, sectoral interests of fisherfolk, urban poor, farmers, prostituted women, mineworkers and migrants. Some are highly specialized, others combine several of these interests and fields of work.... Many find their pedigree in social movements or church social action

programmes.... Philippine NGOs do not represent a unified development 'community' but mirror the full range of Philippine political interests and contradictions. (Hilhorst, 2003, p. 12)”

The Philippine NGO has a history that stretched back to the 1800s and has been used in the pursuit of political objectives. Civic organizations may these be church-based, state-led or aligned to partisan organizations, have all played a role in the making and breaking of revolutions and other political movements (Clarke, 1998 cited in Hilhorst, 2003). In her ethnography of *progressive* NGOs in the Philippines, Hilhorst (2003) noted that they are associated with social protest and oppositional politics and whose predecessors include the revolutionary movements in the 19th century, the peasant uprisings of the 1950s, and nationalist movement and student activism that swept the country in the 1960s. During these years, the Communist Party of the Philippines (CPP) was formed, along with its armed component, the New People's Army (NPA), and its broad-based National Democratic Front (NDF).

When President Marcos declared martial law in 1972, all opposition groups and progressive social organizations were banned, and numerous activists and community organizers were arrested, tortured and killed. Those who escaped either went underground by joining the NDF's armed struggle or sought shelter from Marcos' military forces by affiliating with a university or religious institutions such as the Catholic Church's National Secretariat for Social Action (NASSA), the Share and Care Apostolate for Poor Settlers, the Association of Major Religious Superior of the Philippines, and other anti-Marcos organizations (Asian Development Bank, 2007). Thus, a lot of NGOs find their pedigree in social movements or church social action programs, especially that of the Catholic Church whose practice and concept of social action has been radicalized by Liberation Theology (Hilhorst, 2003; Holden, 2005a, 2005b; Holden & Jacobson, 2007).

In the 1980s, “NGOs” became differentiated based on distinctions made by actors in the Philippines’ protest movement. Thus, new terms and acronyms have arisen to separately label one actor from another. For instance, People’s Organization (PO) refers to community-based organizations, sectoral movements or grassroots movements such as those composed of peasants or Indigenous people, or the thematic social movements like the human rights movement. Thus, the Save Siocon Watershed Paradise Movement (SSWPM) and the Apu Manglang Glupa Pusaka (AMGP) are considered people’s organization. The term NGO eventually became known as “intermediary organizations, which support grassroots work through funding, technical advice and advocacy” (Edwards & Hulme, 1992, p. 14). Hilhorst (2003) noted that there is an important difference between NGOs and POs. The latter is more professional, slightly higher salaried staff, required higher education and a good command of English. However, distinction between POs and sectoral movements is not clear. Large grassroots umbrella organizations are, in everyday parlance, labeled as POs.

Indeed, defining and classifying NGOs in the Philippines is neither a neutral occupation nor apolitical. Within NGO circles, actors classify themselves in terms of who is “real” and “non-real” NGOs. Some NGOs in the Philippines are set up for economic or political reasons and hide under the cover of development (Constantino-David, 1992). NGOs regarded as fakes are classified as those that are government-run (acronymed GRINGOS), business-oriented NGOs (BONGOs), and those fly-by night NGO (Come ‘N GOs) entrepreneurs that never, or only briefly, operate (Constantino-David, 1998). These “compromised NGOs”, which Bryant (2001, 2002) also refers to as “mutant NGOs”, were established by politically and/or economically powerful individuals or groups to counteract a bad reputation, an organizational vehicle by which they seek to tap moral “goodness.”

Bryant (2008) also notes that genuine NGOs are noted for the following qualities: 1) a preoccupation with moral concerns and emphasize the need for behavior that political philosophers refer to as the “right” and the “good” (Lukes, 1993) seeking the transcendence of political and economic structures. In the process, they develop personal identities as activists. 2) altruism whereby employees are known for their acts of self-sacrifice, exposure to military harassment, the risk of ill health, or foregone economic opportunities (Brett, 1993). They are oriented towards the promotion of collective goals (Bryant, 2008). These NGOs are more often than not focused on development, justice and advocacy. Thus, they are referred to as DJANGOs (Environmental Science for Social Change, 1999). They are engaged with the grassroots and are devoted to community and sectoral organizing and on rendering social programs and services. Those that actively promote Indigenous peoples’ rights, critical of environmental issues and the social impact of large-scale mining operations are found among this type of NGOs. As also noted by Environmental Science for Social Change (ESSC) (1999), they have their own ideas of development and how it should be undertaken. “For most NGOs, development is not to be equated with economic development, but development must be carried out in a way that is both sustainable and humane. They see people as the key to development and people’s participation as the means to genuine development” (ESSC, 1999, p. 92). To them, social justice and equity are integral to development.

That said, Bryant (2002), however, raises the flag on genuine NGOs being compromised over the years such that they also resemble mutants themselves. Still they play a key role in Philippine society where NGOs and church sectors are the only genuine and principled opposition even if they are sometimes poorly informed. They help ensure political participation and pressure the government to deliver the necessary social services, access relevant information and better governance. They also mobilize and empower people and communities by correcting

their way of thinking and conditioning as victims and become active participants to national development (Bryant, 2008).

With such complexity, Hilhorst (2003) proposes that researchers must accord a dynamic approach to organizations, pay careful consideration to the discourse within them, and how actors within and around NGOs deal with the local, international and global complexities that affect NGOs' shapes, values and practices (Hilhorst, 2003). As a claim-bearing label, NGO is construed as an organization that does good for the development of others. Two views, however, contest this perspective. One is based on a political standpoint that regards NGOs as extensions of depoliticized neoliberal development discourse. The other sees NGOs as unaccountable organizations that are primarily concerned with advancing the material well-being of their own staff. However, as pointed out by ESSC (1999), NGOs working for development, justice and advocacy are accountable for the issues they raise and for the way in which they raise them to their constituents and the national community. They usually claim or give the impression of choosing the high moral ground requiring them to walk the talk like practicing transparency, conducting research and studying the issues thoroughly and to put forward the best possible arguments in support of their position. When it comes to mining, ESSC (1999) challenges the NGOs for them to contribute meaningfully to the mining debate, requiring them to state their position clearly and support it with solid arguments. For instance, are they against mining on principle and on what is their opposition based?

In any case, NGO actors would always vie for legitimation in at least three ways. First, they must convince others that a situation or population needs development. Second, they must convince others that NGO intervention is relevant and necessary to its primary stakeholder, and that they have no personal interest in the envisaged programme. Third, they must establish their

reliability, trustworthiness and capability in carrying out the intervention (ESSC, 1999). One thing for sure, NGOs are enmeshed in complex relations and processes where they are able to gain legitimacy, expand connections and networks, gain knowledge and acquire funds through symbolic capital, social capital, cultural capital and economic capital (Bourdieu, 1986).

The recognition of NGOs in the 1987 Philippine Constitution and in the 1991 Local Government Code provided space for significant NGO and PO representation in local government, shaping development and playing political roles (Brillantes, 1992; Asian Development Bank, 2007). The number of development NGOs also proliferated in the 1990s such the country probably has the largest NGO density in the world (Hilhorst, 2003). As more NGOs surfaced whether this density be “real” or “non-real,” those identified as progressive became more differentiated and fragmented into multiple communities and non-communities with various persuasions. For instance, the NAT-DEMs (or NDs) for National Democrats, Soc-Dems (or SDs) for Social Democrats or those working closely with the government, and Pop-Dems for popular democrats or those favouring non-aligned participatory development strategies. Among them, the NAT-DEMs commanded greater numbers and influence but were also the most targeted by the state’s military elements. The National Democratic NGOs have experienced the most ruthless human rights abuses and have been subject to anti-NGO propaganda (Hilhorst, 2003). Thus, when the underground National Democratic Front faced internal conflicts that resulted in a split within the leadership, the legal mass organizations that were tied with the National Democratic NGOs also had to choose between the Reaffirmists (RAs) and the Rejectionists. The RAs were those who chose to align with the leadership of the founding chairperson of the Central Committee of the Communist Party of the Philippines, whereas the Rejectionists (RJs) were those who opposed this (Stanford University, 2018;

International Crisis Group, 2011; Caouette, 2004). The NGOs involved in the Canatuan anti-mining campaign have been a mixture of independent, RJ-influenced and RA-influenced. The DJANGOs stand on mining came about when the Philippine Mining Act of 1995 and its implementing rules and regulations were legislated and put into effect.

4.9.1.2 The NGOs in the Canatuan Case

Since the mid-1990s, several NGOs had already been involved in resisting TVI operations in Canatuan through such organizations as TriPeace Development, Task Force Detainees (TFD), Philippines Indigenous Peoples Link (Piplinks) and the Catholic Dioceses of Dipolog, Ipil, Ozamis, Pagadian, Iligan, and Marawi (Diopim) Campaign Against Mining Issues (DCMI), Philippine Association for Intercultural Development (PAFID). But these efforts had been initiated based on individual capacities of these organizations responding to the needs of the community. For instance, TriPeace Development conducted a fact-finding mission on the human rights violations that were committed by the TVI against the locales. It was able to publish a report on the case in 1996. Prior to Canatuan, Piplinks was already involved in an anti-mining campaign in another municipality in Zamboanga del Sur where Rio Tinto, another top-tier global mining company, had been considering a vast area for its mining operations but decided to pull out. In the process, Piplinks also helped in the Subanos' campaign against TVI operations by linking with other networks and exposing to potential financial lenders the company's negative human rights track record. PAFID, on the other hand, had extended its services to the Subanon community in Canatuan through counter-mapping their ancestral domain to establish Indigenous land claims. The Legal Rights and Natural Resources Center Inc. (shortened and often used acronym is LRC), was also drawn to the Canatuan controversy in the late 1990s but no formal institutional support was rendered to the community.

However, it was only in August 2004 that efforts towards a more unified and consolidated strategy has been worked out among NGOs. This was attained through the Canatuan strategizing workshop where representatives of Indigenous organizations, small-scale miners, the municipality of Siocon's local government unit, Save Siocon Watershed Paradise Movement (SSWPM) and the "support group,"⁴⁸ comprised of non-government organizations from the provincial, regional, national and international level were gathered in Dipolog City, the provincial capital of Zamboanga del Norte (Field notes, August 18-20, 2004). This workshop was convened by the DIOPIM Committee on Mining Issues (DCMI), Legal Rights and Natural Resources Center – Kasama sa Kalikasan (Friends of the Earth) (LRC-KSK), Tebtebba and the Philippine Indigenous Peoples Links (PipLinks). The international NGOs were comprised of Christian Aid, Catholic Assistance for Overseas Development (CAFOD), Tebtebba and Piplinks. The national NGOs were LRC-KSK. The provincial NGOs were DCMI and the Pigsalabukan Bansa Subano (PBS), an organization composed of Subano traditional leaders across Zamboanga peninsula, and the Gukom sog Pito Kodolongan or Gukom, comprised of the legitimate chieftains of the seven rivers

In the Canatuan strategizing workshop, local government officials and politicians of the municipality of Siocon were also present (Sanz, field notes, August 18-20, 2004). The local government had to work with the NGOs since this had been mandated in the Local Government Code. With regards to mining in Canatuan, the municipality interior local government was instrumental in mobilizing the barangays (villages), the smallest political units, against TVI's operations, recognizing that it would destroy their environment and subsequently displacing their agricultural and fishery sectors which comprised much of their economy. The Chief Executive,

⁴⁸ It is a term that NGO members of Task Force Canatuan refer to themselves.

Mayor Cesar Soriano, was also a staunch advocate against mining. His motives, however, had constantly been questioned and largely ignored because his political position contributed to the anti-mining campaign. Two years later, he established a gasoline station in Canatuan directly servicing TVI (Tio, 2008).

The general objectives of the Canatuan strategizing workshop had been to come up with a unified strategy to resist TVI mining and to advance a development framework that supported the needs and aspirations of the local community. Specifically, they aimed to have a common understanding and analysis of the community situation by identifying past and present initiatives that had been undertaken by the affected community and the support groups at the local, national and international levels. They also wanted to identify the socio-economic needs of the larger community although which communities these were had not been outlined at the start. They also aimed to identify key activities of the community-based organizations and support groups in relation to their anti-TV I mining campaign to come up with a consolidated campaign plan and identify mechanisms for the implementation of the campaign plan. They also hoped to find possible legal interventions and remedies available in the local, regional, and international levels. At that time, however, they had acknowledged that TVI was already a “runaway train.” It has already commenced its mining operations and was extracting minerals at 50 tons per day (Field notes, August 18-20, 2004).

In the three-day strategizing workshop, the NGOs assessed the strengths, challenges and weaknesses of the Canatuan situation. They ascertained that among the strengths were the relative strong unity among the people of Siocon against TVI’s mining operations. as evidenced by the Pisawak picket line in March that year that mobilized different sectoral peoples’ organizations in the area (farmers, fish-farmers, fisher folks), the activism of local government

officials and politicians, and church-based organizations, not to mention the long history of struggle and unity building among the Indigenous Subanos and small-scale miners. The results of the 2004 national elections in which all anti-TVI/anti-mining politicians won overwhelmingly attest to the power of collective opposition against the state's mineral liberalization policy. The province of Zamboanga del Norte was the only municipality in which the opposition candidates, led by Fernando Poe Jr., a popular Philippine actor, won by landslides against the administration party of Gloria Macapagal Arroyo. The protests actions against TVI have been sustained since 1996. It should be noted though that the downstream community only got involved in 2004. At this time, the number of small-scale miners had been greatly diminished, and that the Subanos were also divided. The recent protest actions have received strong external support from the church and NGOs such as DCMI, CAFOD, PipLinks, LRC-KsK and Tebtebba.

The group also identified opportunities for presenting their case abroad and used it to amplify their advocacy to the United Nations, Canada and the United Kingdom. The forthcoming December 2004 publication of Christian Aid and PIPLinks' "Breaking promises, making profits: Mining in the Philippines" was perceived to be very useful still in the campaign. Because mining in the Philippines was very politicized and controversial, Christian Aid took extra precaution of verifying and validating data that delayed the report's publication, which was targeted to be released in early 2004.

With regards the Indigenous Subano community in Canatuan, the group reflected that within the Subanon community, there were two existing structures that is the Subanon's traditional pigbogolalal (leadership and governing structure) and the SSAI's organizational structure. The former was not recognized by the state and the company through the delegitimization of Canatuan's traditional leadership of Juan Alog. The latter is a people's

organization that was historically established by Canatuan's Subanon traditional leadership in the late 1980s for them to be qualified in applying for the state's land tenure requirements on ancestral domain. Since it was registered as an NGO at the Securities and Exchange Commission, SSAI was recognized by the state and the company but also being led by Juan Alog until he was dislodged as president in 2001. However, this legal organization was the one being "hijacked" by TVI (Fieldnotes, August 19, 2004). The group also realized that it was counterintuitive to continue focusing on SSAI when there is a Lumad structure, the *pigbogolalan* that must be given more attention and support. The *pigbogolalan* is at the heart of Indigenous governance and the Subanos' right to self-determination. It became clear to the Task Force Canatuan that the leadership issues in Canatuan should be resolved to avoid confusion and to clarify as to which organization that the Task Force Canatuan was going to be in partnership with the *pigbogolalan* or the SSAI.

The group had noted the strategic initiatives of the Gukom sog Pigbogolalan (Gukom of the 7 Rivers) in their efforts to not only make visible their cultural traditions and practices, but also asserting the Subanon governance system in Canatuan by conducting a validation of tribal leadership in Canatuan. Timouy Noel Lima, the Gulang Gukom of the Seven Rivers, spoke at length that the Siocon Subanos in the territory of the seven rivers have already ruled that they do not recognize SSAI. "There is no SSAI, he says, when it comes to traditional leadership. The SSAI was legitimized by the Securities and Exchange Commission. The traditional governance system should be followed," (Fieldnotes, August 19, 2004).

However, organizing in Canatuan would be difficult. Foremost was that the Subanos had lost control over their ancestral domain within the certificate of ancestral domain title (CADT) areas. The divide and rule tactics used by the company, with the support of the State and its

agencies and the military, were effective. The Subanos in Canatuan were divided. In addition, the NGOs noted the lack of a coordinated campaign plan with clear goals, definition of roles of various actors in the local (AMGP, SSPM), regional (DCMI, PBS), national and international level (Tebtebba, Piplinks, Christian Aid, CAFOD etc.), Canatuan is located in an isolated area, quite difficult to access both in terms of road infrastructure and communication. This difficulty is further compounded by the lack financial and technical resources, and effective organizational mechanisms to sustain, implement and monitor the campaign at the national and international level. The exchange of information and media projection were also judged to be inadequate, especially in exposing and correcting TVI's misinformation. Additional research and data gathering of publications (environmental impact studies on mining) and other materials (videos) are needed to support lobbying and campaign activities. There was also inadequate attention in exposing the National Commission in Indigenous Peoples' (NCIP), a government agency mandated to protect and advance Indigenous rights, violations of the Subanons' Indigenous rights.

The participants in that meeting also identified several challenges that they had to address to be effective in their campaign. It comprises of conducting research, documentation, information dissemination and media campaign. There was the importance of ensuring Subanon control over their ancestral domain and strengthen their own organizations. The need to educate and raise awareness on human rights, Indigenous rights, the environmental and social impact of mining among the Subanos in Canatuan and the downstream communities in Siocon. These entails gathering of evidences regarding the environment and community which are integral in environmental and social impact assessment studies. Alongside these efforts was also the need to formulate an alternative development framework and plan.

The group also realized that they must come up with appropriate legal strategies that will contest the company's questionable free, prior and informed consent (FPIC), and to counter potential strategic lawsuits against peoples' participation (SLAPP). They have to enhance community organizing work, while at the same time nationalizing the anti-TVI campaign and carry-out meetings with national government agencies. The group was also cognizant of possible backlash from the company and the military, which must be anticipated and appropriately confronted. Because of the various mandates of the organizations and personalities that were involved, they saw the need for a coordinating body that would be able to orchestrate the implementation of the NGOs' various plans.

During the Canatuan strategizing workshop, the participants knew the importance of beefing up their research efforts. It involves collating all pertinent documents from the legal cases that had been filed by the Subanos against TVI and the corresponding government responses to previous complaints. Conducting studies on the state of environment and social implications brought about by large-scale mining in Canatuan. The main objective was to strengthen the advocacy and campaign by planning out a more effective and strategic media campaign, and to file a case against TVI. Thus, the priority is in gathering evidence and witnesses to testify against TVI's questionable practices of corporate social responsibility (CSR). Such an instance was in TVI's partnership of a joint venture project with Echo Bay in exploring Kingking Mines in Davao del Norte, Mindanao when a mining engineer working for Echo Bay reported that Echo Bay had been paying off the military, political figures, rebel groups and terrorists (Laird, 2005; Snell, 2004; Mining Journal, 2004).⁴⁹

⁴⁹ In 1997, TVI wrote off its entire investment of \$21,969,668 in the now-abandoned Kingking project, where mineral deposits had been found to be low grade with high financial cost. The Company and Echo Bay had agreed to cancel all partnership arrangements they had made in 1998. That year, the only contractual link that the two

Education and awareness raising to sustain the protest movement in Siocon were also identified as among the challenges. The NGOs would have to make a systematic plan for educating the various sectors and groups in Siocon and Canatuan about human rights, Indigenous peoples (IP) rights and the environment. This strategy entails conducting trainings and developing education materials on these topics not to mention community organizing and livelihood trainings.

They also had to contend with legal challenges such as strategic lawsuits against peoples participation (SLAPP) when TVI had also retaliated by filing cases against the protest leaders who barricaded in Pisawak. SLAPPs refers to “a lawsuit involving communications made to influence a governmental action or outcome, which resulted in a civil complaint or counterclaim filed against non-government individuals or organizations on a substantive issue of some public interest or social significance” (Pring and Canan, 1996, p. 8-9).

Due to TVI’s human rights violations, they would be exploring possibilities of filing legal cases against the company in the Philippines, Canada and the United Nations Committee on Racial Discrimination or Committee on Human Rights. A case on free, prior and informed consent (FPIC) was also laid out. In the light of the IPRA, which recognizes customary laws and Indigenous justice systems, they all would like to enhance these Indigenous mechanisms to handle conflict among the Subanos and the Subanos and TVI. This meant supporting and assisting the Gukom in their efforts to resolve the conflicts among the Subanos in Canatuan. These plans entail having dedicated and committed lawyer(s) that would handle the cases, conducting legal strategizing conferences, research and evidence gathering. LRC-KsK is acknowledged to have this expertise. It was the legal counsel of the Bla-an Salnaong tribe, who had filed the successful landmark case

companies had was a long-term debt due to Echo Bay by Exploration Drilling Company (EDCO), TVI’s drilling subsidiary (TVI Pacific Annual Report 1998).

against Western Mining Corporation's (WMC) financial, technical assistance agreement (FTAA) that had stipulated 100% ownership of foreign investment.

In substantiating claims for the environmental impact of mining, the NGOs identified that environmental and social impact studies had to be made, with particular attention to water quality and health implications. As mentioned earlier in the chapter, NGOs have different ideas of development as well as strategies in carrying it out. But in that meeting, no baseline criteria or principles were discussed. Rather, there was an assumption that the impact study would be based on the principles of sustainable development which are participatory and not environmentally destructive. Thus, coming up with a more comprehensive and realistic alternative development for Canatuan and Siocon was put in the list to which the NGOs need to respond. Specifically, they would assist the Subanos of Canatuan in drawing up the Ancestral Domain Sustainable Development Plan and Program (ADSDPP), a requirement under the IPRA, especially in Indigenous communities that were awarded with CADC/CADT. Livelihood programs would have to be drawn up for the communities around the mining site as well the communities downstream which will be affected by the mining operations. Most importantly, in this development plan, the role of small-scale mining had to be defined (Field notes, August 18, 2004).

Some NGOs in the workshop requested clarifications regarding earlier assertions of Subanon leaders, who declared that mining is not in their culture. Why then there was an alliance between small-scale miners and the Subanos in Canatuan? Based on my fieldwork, some members of DCMI have also criticized the hiring of former small-scale miners to be its community organizers in Canatuan and Siocon. Other NGO members in the strategizing workshop have observed that there was a wide gap between DCMI's community organizing efforts which was primarily anchored on mining issues, and does not really respond to livelihood assistance. Also, it was noted that there was

a tacit understanding between small-scale miners and the leaders of Save Siocon Paradise Movement (SSPM) that they will talk about small-scale mining only when they have been successful in ousting TVI from Canatuan. This is because the downstream communities will also be adversely affected if small-scale mining continues (Field notes, August 18, 2004).

Dovetailing efforts to draw up the Subano's ADSDPP was the more crucial concern – ensuring Subanos' control over their ancestral domain and strengthen their community and traditional political organization. This would require getting hold of the Certificate of Ancestral Domain Title (CADT) and conducting social investigation to clarify who would be included in the CADT. They would also have to establish that Canatuan is indeed a Subanon sacred site to establish a legal argument countering TVI's arguments based on a facade archeological study TVI had commissioned that had no artifacts or archaeological evidence from the area.

With the Pisawak picket line overran, mining in Canatuan was already unstoppable, although TVI's milling and processing as of June 2004 was only 125 dry metric tonne per day (dmtpd). However, the Subanos, the local leaders and other persons of Siocon present in that meeting still hoped that they would be able to stop its operations. The fervor of local resistance was still burning, but the reality by December that year was that TVI's processing had doubled to 393 dmtpd, clawing away the mount of Canatuan. Hence, the NGOs listed that community organizing had to be enhanced with several ticklish organizational issues to settle. For instance, how to deal with co-existing structures of Indigenous political organization and the state's requirements in recognizing leaders Timuoy Ben Alog as chairman of Siocon Subanon Association Inc. or as timuoy (tribal chieftain). The SSAI has been created before IPRA was even legislated. The issue of competing organizations – the first SSAI (SSAI-1) and the second SSAI (SSAI-2), which is headed by Jolito Tampusao and the presence of the Council of Elders

(CoE) – had to be resolved. Should the NGOs continue using SSAI as reference to Timuoy Ben’s group? A possible solution was to revive the Apu Manglang G’lupa Pusaka, and “kill” SSAI. The relationship between the Subanos and SSM had to be clarified as well since both seemed to support each other in their anti-TVI campaign.

The 2004 Canatuan strategizing workshop meeting had showcased the NGOs expertise and experience in strategizing, lobbying and advocacy. This day give years later, however, on August 27, 2009, when Timouy Ben was recognized by the Philippine Government and the TVI Resources Development Philippines as the legitimate traditional leader of Canatuan, the NGOs were nowhere to be seen in the tribal hall itself. While they were physically present in Podoan in one of the huts not far away from the newly-build tribal hall, from my perspective they were actually sidelined and a world away.

4.9.2 The Recognition of a Tribal Leader

When TVI’s gold mining project was nearing its closure in August 2009, “up on the stage of a newly constructed tribal hall, the Council of Elders, which these two actors (i.e. the state and company) have created and propped up to push for mining in Subanon sacred ground, hugged their rightful leader whom they have maligned and discredited as a *bolyan* (shaman). TVI’s Canadian executives shook hands and had their pictures taken with Timuoy Juan Ben Alog, who in 2004 had to flee Canatuan for fear of his life” (Field notes, 27 August 2009).

“This is a rare occasion,” I heard one of the company's senior officer say. Deep inside I was nauseous and would have loved to vomit right there as I saw Timouy Ben Alog and his soliling (deputy), Orlando Malang standing side by side with government officials and the company’s top executives. It was surreal, bordering on the bizarre.

Jordan Reed, TVI Pacific's Vice-President, came up to me and shook my hand once again as he called to the company's new chief of security. "This is Penny. We're enemies from way back," smiling with that devilish glint in his eyes. I smiled sweetly and affirmed it to the guy as memories of the conversations, meetings and interviews we had about the company's human rights awful track record, and its deceit about Timouy Ben Alog's leadership. Ridsdell seems visibly irked that he could not locate me. I am not one of the NGO or donor agencies that provide financial, technical and logistical support Timouy Ben and his group. But I am always there like that proverbial lizard on the wall just watching and observing.

"You know your attacks do not hurt the company," Ridsdell told me right after I had told him that I am still with Mindanews being one of its co-founders. I need not reply to this jibe, and simply shrugged my shoulders while grinning back at him.

A day later, I was sitting inside TVIRDP's security office in Canatuan, and had the pleasure of saying straight into the eyes of TVI's vice president for social commitment: "You know I have to say this, you are eating back your words." To this, she replied, we were given the wrong information (Fieldnotes, September 7, 2009).

The celebration lasted for another day. But I stayed behind long after everybody left at Timouy Ben Alog's request. Several months ago, in Davao City, in an open conversation that I had helped facilitate with other tribal leaders of mining sites, Timouy Ben and Orlando Malang confided to me that they are already talking with the company. I learned it from them first even before they told their support group about their real situation.

Timouy Ben wants me to write the history of their struggle, not only against the mining company but also against the NGOS which supported him all these years. And he began right

away by telling me about their life under Zamboanga Wood Corporation and Orelina Mining Corporation in the 1960s and the 1970s. I wrote as much as I could and then had to stop because I was needed back in Davao City.

Before I left, he specially prepared me a *pangasi* (rice wine) for a ritual so I may write their story (Fieldnotes, September 7, 2009). I promised to be back in three weeks since I had to leave to prepare for the Subanon buklog in Bayog, Zamboanga del Sur.

When I reached Zamboanga City, I headed to Ateneo de Zamboanga University. Once there underneath an acacia tree beside the motorcycle parking space, I cried, oblivious to the nannies and parents waiting for their wards to finish their classes. Vindication is sweet. But I am crying. This is because of the invalidations of the mining company in collusion with the Philippine and Canadian governments against an Indigenous traditional leadership; the invalidations I, myself, had experienced as a young researcher that tested the human rights impact assessment (HRIA) methodology - a nobody from Davao, Mindanao in Southern Philippines by white Canadians and Filipinos alike as opposed to the company-hired research team. They did not believe me when I recounted the genealogy that I had helped chart along with the Timuoyos of the Gukom nog Pito Kodolongan of Zamboanga del Norte way back in 2004 that attested to Timouy Ben as the legitimate traditional leader of Canatuan. The fears that I had to overcome in treading in the militarized zone and entering into strange cultural horizons, which were more willing to show their darkness than gentleness and be subjected to their poisons and sorcery. The memories of pain that I had to push back and had absorbed in the course of my work to document the violence that the people have experienced at the hands of the mining company's private army. The sadness of seeing friendships, which were forged underneath the mining tunnels, and in building a community that they hoped would make their dreams come

true by their sheer labor but was fast disappearing with the last of the small-scale miners who held their ground all these years against the armed might of the company. The traditional Subanon leaders and small-scale miners were the unseen writers, whose voices helped me write the human rights report in 2006. They took me along unseen forest trails where they used to smuggle sacks of rice, roofing and be hunted down by company SCAAS when the company carried out food blockades. Maybe Jordan Reed is right that the attacks against TVI do not hurt the company when alliances have already shifted.

4.9.3 Collateral Consequences

Since September 2009, I have never set foot in Canatuan again. After the *Buklog de Pangamo*, the highest ritual offered by the Subanos to the creator, in Bayog, Zamboanga del Sur. I again got sick of pneumonia. “It was just so cold, and it was also raining hard not to mention that we keep watch of the rituals because the bolyan (shaman) has just no concept of time. That was why we barely slept for one week (Field notes, October 9, 2009).”

I had intended to go back to Canatuan as planned, but the roads were impassable due to a landslide. I also got sick again for “saway-saway” (sickness due to sorcery or because of the spirits that afflicted me with sickness were displeased with me). The wife of Timouy Ferding, the chieftain of Malubal, who is also the niece of Gulang Gukom Noel Lima sent for a Subanon woman healer from the Gulang Gukom’s territory in Lintangan to help me get a little better. I was feverish and getting weak in Zamboanga City. The healer named Gloria gave me something to drink and anointed me with oil. She told me not to go back to Canatuan anymore because all the people there were already accursed because they negotiated with TVI. The spirits of Canatuan were now very angry with Timouy Ben and the rest of the Subanos in Canatuan, she

said. The Gulang Gukom's niece was just silent the whole time the healer was speaking. She did not defend her uncle the Gulang Gukom, and her cousin Timouy Ben.

I heeded the healer's advice and took the plane back to Davao. Indeed, I had pneumonia again. "At least, it was just in my right basal lungs unlike before that I also got hospitalized with two lungs, which required me to rest for a year (Field notes, October 8, 2009)." But, for one reason or another I remained weak that I was only able to do fielding by way of text messages and phone conversations with my Subanon friends. One of my curiosities that I wanted to shed light on was why Timouy Ferding held a ritual named "Puyot nog Pilis bu Potulak," which was a preparation for a much bigger ritual against the destruction of a sacred mountain in Canatuan. He had disagreed with the negotiations that took place between his cousin Timouy Ben Alog and TVI which was facilitated by the Gulang Gukom Noel Lima.

"That ritual means that I remain with my people, my ancestors, and as a descendant of Timouy Manglang, and that it serves as protection against God when He would ask me one day why Canatuan was destroyed, and also as protection from curses, come-uppance, and punishment by the spirits. We did not give consent in the destruction of Canatuan. It was also a ritual to avoid any sickness and death to my people," Timouy Ferding said (Field notes, January, 21, 2010).

The day before the celebration of the official recognition of Timouy Ben Alog as the chieftain of Canatuan, the Gulang Gukom Noel Lima, Tata, and I passed by Malubal, which was Timouy Ferding's domain. He was conducting a ritual when we went up to his tribal hall. Although he acknowledged Gulang Gukom Noel Lima's presence, he was fiery in condemning the negotiations made between Timouy Ben and TVI. In a statement sent through email, he wrote:

I, TIMUOY FERNANDO “Ferding” D. MOLAY, being the descendant of APU” MANGLANG through APU” MOSOGIA, I continue to condemn the continuing destruction of Mount Canatuan and because of this, I prepare a Ritual called the “PILIS BU POTULAK” so that all what had happened in Mount Canatuan will not occur to my Ancestral Domain, considering that my Ancestral Domain is the adjacent community of Mount Canatuan. Moreover, if I will be questioned for, in terms of my accountability to my tribe, I will be free from blemish and if there will be curse that APU’ MIKPOGON will render to the People for the destruction of Mount Canatuan, my people including my generations and descendants will not be included in the “CURSE” or the “TOPU”. This is part of the Customs and Traditional Practices of Subanon People.” (F. Molay, personal communication, August 23, 2009)

During the celebration in Canatuan, I again met the other chieftain members of the Gukom sog Pito Kodolongan. It has been awhile since I saw most of them together. Some of them sat bewildered with what was happening. I gathered from them that three chieftains refused the invitation to witness the ceremonies in disagreement with the negotiations with TVI.

4.9.4 Reflections on Interventions

The Open Conversations was only one of the initiatives I had taken to address a complex context of politics and Lumad assertions on their ancestral domain.

In one of my correspondence with funding agency’s project officer, who had approved the funding of the Conversation Project, he asked me what intervention did Mindanawon introduce in relation to the Subanon community in terms of “peace”. I replied initially that there was no intervention in the conventional sense of the term. I clarified that “no intervention” was totally untrue because there was a decisive intervention made – not to “intervene”. We knew about their planned negotiations with the company before anyone else (NGOs) did. As the brains behind that project, which aimed to “restore” community relations in a resource conflict context, I had opted for Mindanawon not to intervene, but just to be content with “documentation”,

a process that is always underestimated compared to the usual development engagements that development workers are commissioned and expected to deliver. This idea, however, did not come out of the blue. Rather, this non-intervention intervention was a result of the research into mining in Mindanao project that the three Jesuit Universities had conducted.

I have noticed that the Indigenous groups, who were subject of development agenda by various actors, would perceive each other negatively depending with which side they were identified. But they were never given the space to *just* talk. I also kept in mind at that time what Paring Bert had written in the prologue of his book about a fellow Jesuit warning him about the agenda of NGOs as well. In just “documentation” (which is more like providing spaces for conversation actually), however, we have the privilege of being able to hear their insights, opinions, and ways forward. It also gave us insights into the quality of development work that civil society organizations are doing in a resource conflict context. But over and above this, not to “intervene” means respecting the Subanos of Canatuan right to self-determination. We have provided them space last March to converse and process their thoughts and experiences in relation to the mining company without judgement and in a neutral venue where they would be able to talk among themselves without performance or grand standing and away from their respective communities, and without the intervention of outsiders.

4.10 Vignette 10 Fielding (2010): Fielding in Montreal

On 6 January 2010, I received an email from Caro at Rights and Democracy inviting me to an international meeting on human rights. She wrote that “it will be the same kind of event as South Africa, but with the new teams doing impact assessment and I would like if you could join to share your experience and explain your process, the techniques you have used, etc. I will give you more details about it, but for now, can you tell me if there is a possibility for you to be

available around March 16-20 to come to Canada?” (C. Brodeur, personal communication, 6 January 2010). I replied that I would have to check my schedule with Mindanawon. We were about to undertake a research study on Indigenous Peoples education among the B’laans, who are receiving scholarship and other educational support from SMI-Xstrata in Sultan Kudarat, and I was unsure of our fieldwork dates. The project was an offshoot of the networks we had formed during the three Jesuit Universities research on mining in Mindanao.

A week later, I confirmed that I would be able to attend the March 16-20 meeting in Montreal. However, it was another week before Caro was able to reply to my email saying that they have been very busy and that they had to deal with “a terrible news last week.... The President of Rights & Democracy died of a heart attack. He has been with us for a year and a half. He was a great man! Real human rights defender who has given his heart to the institution. It is a tragedy for us. A huge loss.”

Curious about who this man was, I googled Remy Beauregard. I learned that “Rémy Beauregard died ... after a contentious board meeting that saw a prominent board member walk out in disgust” (Friesen, 2010). His death, the *Globe and Mail* reported, “comes at a time when the Montreal-based organization he led was growing bitterly divided. Sources close to the commission say that a recent round of appointments to the board by the Conservative government had dramatically altered the organization’s direction (Friesen, 2010).” It seemed to me that the HRIA international meeting would be happening in the aftermath of or even still raging internal storm.

Three things concerned me about my fielding to be held in Montreal. First, how different would it be from the Johannesburg meeting that was in 2006? Second, I had no idea what winter was really like in Montreal in mid-March 2010. Third, what am I going to share with the new HRIA teams considering that we have different contexts and perspective?

The Johannesburg meeting was held in September 2006. If it were not for this meeting and my being cajoled to attend by Geoff, who was one of the HRIA-Philippines' main movers about its importance, I would not have gotten a passport. My politics had me questioning the relevance of the Philippine Government in Mindanao, given the way it had treated and regarded us. Obtaining a passport from my point of view would stamp me as an official citizen of the Republic of the Philippines. I only reconsidered my stance when Geoff said that having a passport would also mean being able to bring my advocacies to various levels and arenas beyond Mindanao. So, I applied for a passport five weeks before the Johannesburg meeting, which prevented me from an early processing of my visa. It only came in just a few days before I was scheduled to fly to the Philippines' national capital. Hence, five hours before our flight was to leave for South Africa, I was still in the Embassy of South Africa in Makati City. At that time, I could not care less if I'd be able to obtain a visa. Since my father's oldest brother was dying of cancer, my cousins and relatives from all over were already flying to Davao. Nevertheless, my mother had advised me to go and attend that meeting.

There were at least 30 of us who met in South Africa. All five countries that piloted Rights & Democracy's community-based HRIA were there. The participants were a mixture of positions and backgrounds: community leaders, lawyers, researchers, NGO workers, human rights advocates and experts who were university-based and/or were working with the United Nations as consultants, representatives of international rights organizations (e.g. Amnesty International, Oxfam-America, Center for Civil Society, Rights and Democracy, Halifax Initiative Coalition) and South Africa-based NGOs (e.g. Centre for Civil Society, Southern African Centre for Economic Justice). There was intense interest and energy in discussing the community-driven human rights impact assessments since this was a pioneering initiative being

led by Rights and Democracy. Prior to this initiative, no known community-based HRIA had been conducted, and its principal objective was empowering communities. Employing such an approach, R&D's HRIA tool had already veered away from the conventional definition of impact assessment, viewed as "the process of identifying the future consequences of a current or proposed action" (www.iaia.org). Certainly, a community-based human rights impact assessment intended to empower communities would certainly have a significant impact on political life.

One of the highlights of the South Africa meeting of HRIA researchers was the video conference on Business and Human Rights with Professor John Ruggie, UN Special Representative to the Secretary General. We presented a written statement describing the method we were collectively developing "intended to systematize what many communities have been doing informally for a long time – assessing both the positive and negative impacts of projects on their rights" (Rights and Democracy et al., 2006). We also stressed the importance of "recourse, or, in our case, the requirement that people who are affected by (investment projects) are able to claim their human rights."

In that statement, we outlined 13 principles for companies and governments to develop a systematic and credible HRIA for foreign investment that should be embodied in national and international normative and regulatory frameworks. Below are the principles:

- 1) All FDI projects should be subject to an HRIA commensurate with the anticipated impacts on human rights.
- 2) The HRIA should be thorough and comprehensive, addressing all the rights contained in the International Bill of Rights, International Labour Organization conventions, the UN Declaration on Indigenous Peoples' Rights and other relevant standards.
- 3) The emphasis of the HRIA should be on avoiding rather than on mitigating adverse human rights impacts.
- 4) The HRIA should be conducted by a competent body and subject to levels of independent scrutiny and validation that are appropriate to the impacts of the project.

- 5) The HRIA should be conducted as early as possible, and ideally at the feasibility stage of a project. It should inform the decision of whether to invest, the location of the investment and the design of the project across all its functions and operations.
- 6) The methodology should reflect best practice and should have as its starting point an assessment of the risks to, and rights of, communities.
- 7) The HRIA should address impacts throughout the lifecycle of the project.
- 8) The process of developing the HRIA should be transparent and involve affected communities.
- 9) The findings of the HRIA should be public and in particular shared with affected communities and relevant regulatory bodies.
- 10) The HRIA should be a dynamic tool, reflecting the actual impacts of the project over time, as well as evolving national and international standards, and any changes to the human rights context of the project.
- 11) The findings and recommendations of the HRIA should be embodied in a management and implementation plan.
- 12) The project's management and implementation plan should be monitored and reviewed by a body that has the competence to do this and that is independent of the company operating the project. Such reviews and plans should be made public.
- 13) Governmental and inter-governmental support for the project should be conditional on an HRIA that reflects the above principles, and on compliance with the management and implementation plan.

At that time, Ruggie was still in the process of coming up with measures that would strengthen the human rights performance of the business sector globally. It was only in 2011 that the guiding principles on business and human rights were unanimously endorsed by the UN Human Rights Council (Office of the High Commissioner United Nations Human Rights, 2011).

During the Johannesburg meeting, the Filipinos bonded pretty well with the Latin Americans. I was particularly drawn to interact with Clara and Patti, two women leaders of Cepema Lulay in Peru who conducted the HRIA assessment there in the context of women's rights. While I had not taken up Spanish in college, I somehow managed to understand and converse with them. By listening carefully to familiar words and observing their gestures, I somehow got meaning from the context of what they were saying. I attributed my recognition to

the many Spanish words mixed in Tagalog and Bisayan languages during the Philippines' 300 years of Spanish colonialization. I had also been exposed to Chavacano language during my fielding in Siocon and Zamboanga City, and as a child in Davao City where some relatives and family friends would speak Davawenyo Zamboagenyo, Abakay Spanish or Davao Chavacano. Zamboanga City is where the most vibrant of the Philippine Creole Spanish variety was spoken and where the largest group of Spanish creole speakers in the world are found (Rubino, 2008). The Gulang Gukom Noel Lima himself speaks Chavaco to Zamboanguenos. So, did my friends Alber and Regie, who were my fellow researcher in mining in Mindanao.

At the end of the second day of our Johannesburg meeting, Clara was hilariously convincing me to fly back to Peru with them. She was trying to marry me off with one of her bachelor sons. "But I am such a lousy cook. I even burn my rice even with a rice cooker," I candidly replied.

"Bueno, mis hijos good cocinar - cook," Clara said in broken English as she brushed aside my quips. I was looking forward to meeting Clara again in Montreal. But when I got there, I learned from Cepema Lulay's two representatives that she had succumbed to cancer in 2008.

So, winter in Montreal got colder when I learned about the death of my friend Clara. As it was, I had no idea what winter meant. Three weeks before I was supposed to leave for Canada, I asked my cousin, who had been abroad during winter what it felt like to be in a minus 15 weather. He glibly told me to put myself in a deep freezer. "That's usually kept at minus 10," he explained, "and you just had to extrapolate the next minus 5." He never imagined that I would take him literally and did just that in my sister's pastry shop where she had a huge freezer.

When Caro and her husband picked me up at the airport, they warmly welcomed me, but felt sorry for me when they saw me shivering in the car in my borrowed winter coat, wishing that

I was wearing more layers of clothing. Cara's husband, who is from France, tried to take my mind off the cold. He shared briefly about how it was for him in adjusting to Canada's winter when he first arrived in Montreal to take his doctorate studies in physics. "By the way," he said before they dropped me off at a hotel, "the Canadians love to talk about the weather."

"Why did they schedule the meeting during winter and not in late spring so it would not be that cold?" I asked one of Cepema Lulay's representatives, who was also shivering when we were walking to the University of Quebec and Montreal (UQAM) for a theatre show the following night. She replied in English that they were also in Montreal in early January for a meeting. She was miserable and cold, she said, and it was snowing. I had no reply to that. It was minus 5 when we all met in Montreal on the first day of the international meeting. Yet, my teeth were already chattering after just some few minutes after I left the hotel. My friend Caro and the other Canadians whom I met outside the building where R&D was located were smiling. They enthused that it was such a beautiful day, so bright and warm.

4.10.1 International Meeting in Montreal

Except for Caro, who had taken on leadership of R&D's community-based human rights impact assessment, no one I know from the Johannesburg meeting was in Montreal. I was the only one from Asia. The new HRIA research teams were from the Americas: Bolivia, Columbia, Ecuador, Peru, and the United States. I understood from Caro that since 2006, many partnerships have been developed such as OXFAM America and the International Federation for Human Rights (Fieldnotes, March 17, 2010). Except for the United States and Peru, field workers were using the HRIA in the contexts of farm labor and women's rights. All the other new impact assessment sites were studying the impact of mining companies on the human rights of host communities.

Like the Philippines, Bolivia, Columbia and Ecuador are located along the Pacific Rim with rich mineral resources. The common themes that emerged from the case studies dealing with mining, gas and oil industry have contexts that include poverty, conflict and divided communities. Most sites of the extractive projects were also located in remote and Indigenous lands. The new HRIA teams also noted the disparate power relations and divergent interests of the various social groups in the host communities. They also reported that laws and relevant standards to protect the welfare of host communities were already in place. However, there was a lack of company compliance and no state enforcement, particularly as related to consultation processes. As was the case in Canatuan, no consent obtained. The teams reported that despite the existence of land rights, companies would take land. Mining companies were also forging documents that attested there were no Indigenous peoples living in the area before they entered the area (as in Columbia). Consultation processes were also omitted (as in Bolivia).

Each team also expressed concern over safety and security of participating communities as well as of the researchers themselves. Columbia noted that the HRIA could not be implemented in a political vacuum because there were imbalances of power relations, and lack of symmetry in terms of access to information. Just as in the Philippines, the Latin American countries had also legislated a neoliberal regulatory framework beginning in the early 1990s, giving a free hand to foreign mining industries. These countries, also rich in natural resources, are poor and dependent on foreign aid, with huge foreign debts and subject to the International Monetary Fund and the World Bank's conditionalities. The Latin American case studies also reported high social and economic inequalities. In addition, these countries and the Philippines share a common history of Spanish colonialism and its legacies. We were also subjected to the United States' neocolonialism that used military strategy of low intensity conflict with divide

and rule tactics. Bolivia, Columbia, Ecuador and Peru also have strong resistance and liberation movements, expressed in various forms and avenues. For instance, ecclesiastical base communities and urban protests of various kinds to New Social Movements and armed rebellion, challenged the state's economic and political policies and authoritarian way of doing politics.

As we continued to plough through the four-day meeting to discuss the cases, I noted that the Philippines' case study was the only one that made use of map-making and storytelling. However, I was particularly drawn to the HRIA reports of Bolivia and Columbia. The mining researcher from Bolivia was confronted with the use of language and translation relating to the words "human rights" or "derechos humanos" in Spanish. To the Indigenous host community of mining, "derechos humanos" means death. Hence the use of such phrases brought confusion and silence opposition to their use. The researcher then suggested that there should be a glossary for outreach work, establishing an internet dialogue to develop culturally appropriate terminology (Field notes, March 19, 2010).

Hearing her report brought back how in using the HRIA check list, I also found it produced unintended consequences among the Subanos, small-scale miners and downstream communities in terms of language and perspectives. The HRIA, conceptualized on the western notion of the human rights of an individual, was being applied to social group, which were enculturated and socialized with collective outlooks and nurturant-responsible personality traits (Whiting and Whiting, 1975). They are community-oriented, others-centered, and less self-focused. These collectivist and group-oriented attitudes and perspectives are linked to the Subanos' horticultural mode of livelihood and the small-scale miners' way of life. The miners have to depend on each other because each time they go to work inside the tunnels meant having a 50-50 chance of coming out alive. The farmers and fishpond Bisayan settlers downstream were equally collectivists in outlook because as rice

growers and fish-farmers they are dependent on each other in maintaining the quality of the river for the irrigation and water supply to raise their produce.

While I agree with the Bolivian researcher's suggestion to have a glossary of terms, I also emphasized during the discussions that those who are conducting community-based HRIA should first understand the social groups by conducting long-term and extensive fieldwork. I shared my approach with the other researchers.

“It is best to always operate on principles of respect, sincerity, transparency, and accountability, even if some community members are hostile towards you. Before the HRIA research, I had been in and out of the community for at least two years, writing about their stories or just simply listening to what they had to say because that is what they needed most. Because of this, the community somehow got used to my presence, which became very important in the long run, since it gave me access to information and valuable insights about the conflict of interests of various actors at play. But this also stressed greater responsibility on me as the researcher, which I had to bear even long after the HRIA was accomplished.” (Oxfam America & Rights & Democracy, 2010, p. 7).

Through extended fieldwork, collaboration and solidarity with the community would be more meaningful and strategic. Furthermore, limited or non-existent access to the internet and computer will potentially disenfranchise far-flung communities and peoples' organizations. Their capacities in terms of skills, logistics, and availability are inadequate or already overstretched. I also know that having a cellphone with multi-media features and a camera would be more effective when communicating human rights abuses in real time, provided, however, there is a network signal. The Bolivia mining case study also made me wonder how militarized the area was. My question arose because in Jolo and in some parts of Mindanao, network signals can be switched off when there are military operations underway. I wondered if this was also the same with them.

From my relative brief interactions with the members of new HRIA teams, I gathered that they were of the *intelligentsia*. They also wear various hats - lawyers, professors, graduate students, development workers, community organizers, and human rights advocates depending on their duty of the moment. Most HRIA researchers were in their 30s, already stripped of youthful idealism. They were at a stage of seeking a balance between remaining focused in hammering that boulder of social injustices and inequity and making a living because they had to for the sake of their children and the future generation. Chances are that while they have good intentions in protecting human rights, the ability to stay, organize and collaborate with the community in the long-term would be challenging, if even possible, in the whole balancing act that they were doing.

While I did not have the chance to have a candid one-on-one conversation about how they view the HRIA in their political struggles, my intuition told me that like me they view it as only one among the tools that they could use in chipping off that big boulder of structural oppression and violence to ensure human rights. At best, the HRIA report would hit governments and companies where it hurts – their reputation. It would also potentially burst the Canadian public’s belief that Canadian mining companies operating abroad are respecting human rights (M. Ezpeleta Shared Notes, March 18, 2010). One of OXFAM’s Latin American country representatives had a more sobering view about the HRIA, noting the difficulty in using the reports at higher human rights forums (or fora) especially when there were “no tools, information to bring the issues to international attention.” He stressed that there is more “need to act at every level simultaneously and create systemic change by leveraging a range of actors.” So, we “need to ask: where will the HRIA report have the greatest impact?” (M. Ezpeleta Shared Notes, March 18, 2010).

I scanned the faces of the other participants as we pondered what he had just said. My Latin American *companeros* and *companeras* were silent. Personally, I was still dealing with the freezing

cold and jetlag. Did they not know that for every hour of time difference between Philippines and Montreal, it would take one day for me to recover? That meant an equivalent of 12 days for me to fully adjust to Montreal's time zone. By that time, I would already be back in the Philippines.

But is it not what we were doing? I asked myself as I went back to his question. I looked at the speaker again. Indeed, he was a seasoned activist and development worker, who is well-paid by OXFAM America. With my short engagement with the other HRIA researchers, I gleaned from them that they, like me, also wear different hats in their various levels of engagement. That also meant that each one of us was already thinly spread out in our capacities. We struggle to make ends meet by juggling our political and social causes with day jobs that pay so little. So, we augment our human rights activities with other sources of income by moonlighting as researchers or teachers. As intelligentsia, the society may perceive that we seem to be doing a little better than the Indigenous communities, with which we were collaborating because of our education and profession, social capital and status. But the structural inequities were also impinging on our daily wages and salaries such that surviving is becoming more difficult. Local communities were also challenged in terms of capacities, logistics and human resources. Indeed, although community empowerment is the goal, HRIA would hardly make a dent. That was why during the discussion on my presentation of the HRIA Philippines, I suggested that human rights courses should be taught to students of engineering and business colleges because they will be the ones, who will be employed in the extractive industry and engaging with communities later on. It would also be ideal if they will also be required to take philosophy and anthropology that would make them aware of the *other*. That for me was being proactive in terms of leveraging other actors.

As it is, the idea and development of human rights and business have taken awhile to germinate, even more so in practice. Christine Bader, the special advisor to Professor Ruggie, spoke of her own initiative of conducting an HRIA for BP, a British multinational oil and gas company, for its gas plant in Indonesia around year 2000 (Field notes, March 18, 2018). She pointed out that around that time there were no tools or guidance on how a company might conduct an HRIA. R&D began developing the community-based HRIA in 2005. Its initiative was presented to the Sub-committee dovetailing with the presentation of the complaint of the Subanos and other local leaders (one of whom was an officer of Siocon Municipality's interior local government) when they filed a complaint at the Canadian Parliament's hearing on TVI's alleged human rights abuses.

Orlando Malang, Canatuan's *soliling* (Timouy Ben Alog's deputy) disclosed to me that they had a side conversation after the meeting with the chairperson of the Subcommittee on Human Rights and International Development of the House of Commons' Standing Committee on Foreign Affairs and International Trade (SCFAIT). He told Orlando and the other three Siocon delegates the Parliament cannot do anything about their complaint because Canada has nothing in place – no regulatory framework or mechanism – to hold Canadian mining companies operating abroad accountable for adverse impacts on human rights of people and the environment in host communities.

However, it was because of the Subanos and the downstream community's complaint that the House of Commons' SCFAIT's tabled a report that called on the Government of Canada to discuss in September 19, 2005 the following: 1) “ensuring socially and environmentally responsible conduct by Canadian Companies”; 2) “conduct an investigation of any impact of TVI Pacific's Canatuan mining project in Mindanao on the Indigenous rights and the human rights of

people in the area and on the environment...within 90 days” (Subcommittee on Human Rights and International Development of the SCFAIT, 38th Parliament, Session 1). The committee also suggested that “it does not promote TVI Pacific Inc. pending the outcome of the investigation.”

The Standing Committee on Foreign Affairs and International Trade had conducted a series of hearings beginning March 23, 2005. At these hearings, community representatives from Canatuan (Subanon Soliling Orlando Malang) and Siocon presented their complaints, and NGO representatives in Canada spoke about specific and general situation of general situation of Canadian mining companies and human rights abroad. Catherine Coumans of MiningWatch Canada argued that “Canada needs extraterritorial tools that will allow us to better assure that the operations of our companies abroad reflect Canadian values and development objectives” (SCFAIT Subcommittee on Human Rights and International Development, 38th Parliament, Session 1, Meeting 12). Her suggestion was also supported by Diana Bronson, International Centre for Human Rights and Democratic Development’s Program Coordinator on Globalization and Human Rights, who cited “credible complaints of allegations of mining practices that directly impact or have a negative impact on human rights... (in) Ghana, the Sudan, the Democratic Republic of Congo, Kenya, Tanzania, India, Indonesia, Tibet, Mexico, Guatemala, Peru, Chile, Argentina, and Colombia” (SCFAIT Subcommittee on Human Rights and International Development, 38th Parliament, Session 1, Meeting 12).

Bronson then sought the Canadian government support for: 1) the United Nations Norms for Business, which in 2005 was still being proposed to the UN Commission on Human Rights in Geneva. It contained a “detailed overview of what the obligations of companies should be with regard to human rights. They cover civil, political, social, economic, and cultural rights” (SCFAIT Subcommittee on Human Rights and International Development, 38th Parliament, Session 1, Meeting 12); and 2) R&D’s human rights impact assessment, a tool which the

organization was still developing at that time. Bronson contended that “states and intergovernmental bodies--for example, Export Development Canada or the World Bank--should assess the impacts on human rights of large-scale projects before they lend their support... (which) will prevent abuses from occurring” (SCFAIT Subcommittee on Human Rights and International Development, 38th Parliament, Session 1, Meeting 12).

Following these series of hearings, the House of Commons’ Foreign Affairs and International Trade Committee also called on the federal government to initiate a multi-stakeholder process that aimed to strengthen existing corporate social responsibility programs and policies and developing new ones for Canadian oil, mining and gas companies that are operating in developing countries. In response, the Government of Canada initiated a series of national roundtables on Corporate Social Responsibility and the Canadian extractive industry in developing countries which concluded in November 2006. The end result was a consensus report with a recommendation that the Government of Canada should create a comprehensive CSR framework with mechanisms that will ensure accountability for companies that fail to comply with the required human rights standards. Two years later, instead of adopting the most important recommendations of the consensus report, the Government of Canada under Stephen Harper promoted voluntary self-regulation with no reporting requirements or sanctions. While it created a complaints mechanism that would allow for investigation into allegations of human rights abuses by a Canadian company, it would only be in cases where the company consents (Lamarche, 2010).

So, it was a pleasant surprise for me to learn from Catherine Coumans in Montreal that Ontario Liberal MP John McKay had filed Bill C-300 also known as “An Act Respecting Corporate Accountability for the Activities of Mining, Oil and Gas Corporations in Developing Countries Act.” It came four years after the Subanos and the Siocon downstream community

representatives had gone to the Canadian Parliament to complain about TVI Pacific Inc.'s negative impact on Indigenous rights, human rights and the environment. The bill was filed in February 9, 2009, following the “actual recommendations made in the 2006 government round table report on corporate social responsibility and the Canadian extractive industry in developing countries” (Valeriot, 2010). By March 2010 during the international HRIA meeting, the Bill C-300 was viewed as “a road to redemption for mining companies” (Lamarche, 2010). However, as expected, it was also “generating heated public debate as well as strong opposition from the Canadian mining sector” (Lamarche, 2010).

R&D's legacy of developing a tool on a community-based HRIA that aims to empower communities, however, lived on through OXFAM-America. The global NGO not only supported the international meeting in Montreal, it also produced with R&D the publication of the *Community-based Human Rights Impact Assessments: Practical Lessons. Report from an International Meeting, Canada, 2010*. For some reasons, a photo of me conducting the HRIA among the Muslim residents in Siocon was chosen as its cover photo. No one needed to know that Hadji Sharifa had advised me to conduct the HRIA as quickly as I can. That is, we only had a maximum of two hours, which included sailing on a banca (a dug-out canoe with outriggers) to go to that small island where residents have complained of skin diseases which they attributed to the mining operations upstream. This was also in consideration of Caro, a French-Canadian, who is a possible kidnapping target of kidnap-for-ransom or terrorist groups (e.g. Abu Sayyaf). From my standpoint, that HRIA group assessment was unique from all others I have conducted. Most of the participants in that little island were women. Not one of them knew how to read or write except for that man in the photo who drew the map for everyone. I wondered at that time why was it that it was only the women who came out. Were the men out fishing that day? Or

were they somewhere else? I wondered if it was the same in the evacuation centers where I have been to during armed conflicts. It is either the men were in hiding for fear of being suspected as Moro rebel fighters, or they have joined the rebel groups.

4.10.2 Detouring to Saskatchewan

Three days before I was scheduled to fly back to the Philippines, I got an invitation from the College of Law at the University of Saskatchewan to present my study on the community-based HRIA. My friend Marilyn Poitras (brave soul), whom I had met in Mindanao as a consultant for the Canadian International Development Agency (CIDA), was interested in learning about the effect of the community-based HRIA on TVI Pacific. I had met her through my older sister Charina, also a lawyer and working for CIDA's peace and development initiatives in Cotabato City, in 2008 when I went home to Davao City from a lengthy fieldwork engagement. Marilyn, a Metis, was eager to learn about Indigenous rights and ancestral domain issues, particularly in the Autonomous Region of Muslim Mindanao. I had generally explained to her that the Philippines had the Indigenous Peoples Rights Act and that unlike where she and my sister were working, my field site was in Zamboanga del Norte, also a post-conflict area and that the Indigenous issue I was studying was in a resource conflict context. This led me to ask her what she thought about TVI Pacific's operations in Mindanao.

“TVI?” she asked. “What is it?”

“It's a mining company based in Calgary,” I said

“No, I have not heard of it,” she replied.

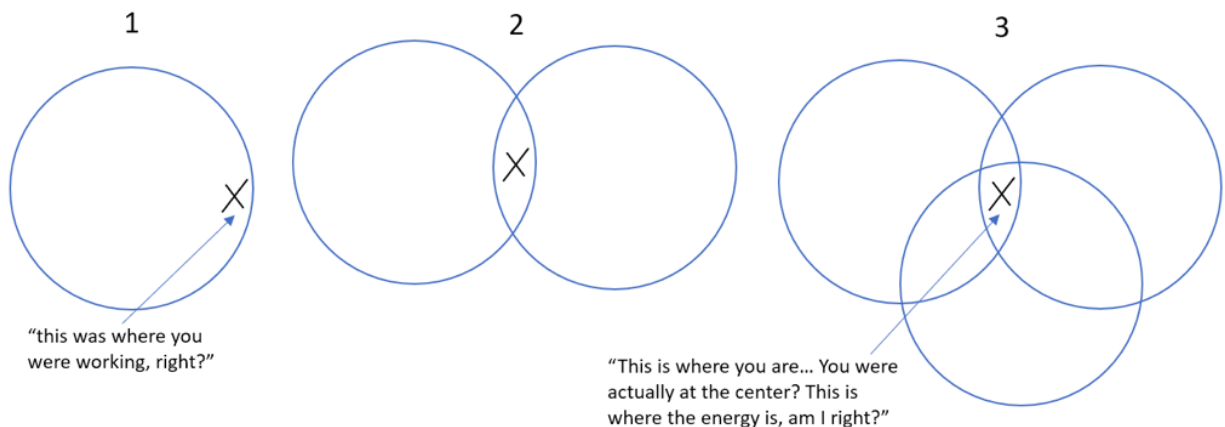
Hiding my surprise, I recounted to her the case of TVI and its impact on the people and environment of Canatuan and in Siocon. I had the impression that most Canadians knew about TVI considering that the controversy surrounding the company had reached the Canadian Parliament. TVI, a Canadian junior mining company, and mineral liberalization practically had indelibly created ideological fault lines in the Philippines. Since TVI and the government's mining policy had generated public debate and grief, it felt like the whole world knew about it. I also told her about the human rights impact assessment that I had conducted in 2006 and briefly summarized our findings. I also mentioned that Rights and Democracy had published the report and sent a web link where she could get a copy of it.

In the course of making three presentations in the College of Law, I met a professor who broached the idea that I consider applying for a scholarship in the University of Saskatchewan's College of Graduate Studies and Research. The professor pointed out that there was nothing to lose anyway. With Marilyn prodding me to stay a little longer, to get some needed rest before going home to the Philippines and to see a bit of summer in Saskatchewan.

"It is so beautiful here in summer, Pen," Marilyn continued. The riverbank along the Saskatchewan river will be all green. She also showed me the Murray Library where I spent most of my time reading and copying books on my notebook. Sometimes, I took digital photos of some chapters with my camera. I know about the intellectual property rights, but from where I was, a book would cost as much as one sack of rice. Yes, writing for scholarship is a necessity. But it is a luxury in my context, more so with theorizing. Without ample access to literature, contribution to scholarship would be at the bottom of my possibilities as an engaged scholar and committed participant researcher.

Three weeks before I was supposed to return home from an extended stay in Canada, I got a letter from the University of Saskatchewan informing me that that I had been awarded a scholarship. It threw me off. This was not in my plans. I went through the motions, largely because of my sense of adventure and curiosity. When George Khachatourians, Head of the Interdisciplinary Graduate Studies welcomed me in his office in the Agriculture building, he asked me about my background. I told him that I worked at the margins and that I have an interdisciplinary background. He listened carefully.

To my surprise, he started drawing a circle on the white board, pointing to the edge. Here is where you were working, right? He again



drew another circle that connected with the other circle, and then a third circle. Then, he tapped the white board marker on that point where the three concentric circles were overlapping, saying, "This is where you are... You were actually at the center? This is where the energy is, am I right?" I could only nod in silence and sheer respect for a wise stranger who perceived me and my work in a 30-minute conversation. A few days later, he emailed me, writing: "I enjoyed your

perspectives about education and serving the people. You are a highly dedicated woman and for a great cause.” (G. Khachatourians, personal communication, May 26, 2010)

After praying intensely for three days using the examen, a method of detailed inspection of my life and conscience which I learned from the Jesuits, I decided to stay instead of going home. This was because amidst my fears and trepidations, I was consoled and instructed to rely on divine providence during my examen. So, I submitted my marginal existence with no money or connections in a strange land. I only knew Marilyn and her family, and a few Filipino scholars. While I waited for my study visa to be approved and getting acclimatized to the Canadian fall, I spent my time reading and being updated on Bill C-300. One of my roommates was actively campaigning for its passage into legislation as a member of Just Youth, a youth group of Catholic Church-funded Development and Peace. I did not disclose to her the many ramifications of the bill with the Subanos of Canatuan and the downstream communities of Siocon Municipality. At that time, I also had no way of communicating to the Subanos and downstream communities to tell them of what impact and consequences their coming to Canada had and taking their grievances to the House of Commons in Ottawa.

In November 2010, to my roommate’s frustration, the bill was defeated, though only by only six votes, with the final vote total of 140-134. The *Globe and Mail* reported that it was “unsurprising. The extractive industry is a large, wealthy and well-connected interest group, with prominent ex-politicians, including former Liberal Minister of International Trade Jim Peterson, among its lobbyists” (Simons & Macklin, 2010).

On April 3, 2012 Canada’s Foreign Affairs Minister John Baird announced that the government was scrapping Rights and Democracy due to internal strife. The progressives had this take on that announcement: “This Conservative government has tried to use Rights and Democracy

to advance its own ideological agenda. When that failed, they drove the organization into trouble and then killed it off as a ‘cost-cutting’ measure.” (LeBlanc cited in CBC News, 2012).

In 2013, the Government of Canada under Stephen Harper had announced that the Canadian International Development Agency was going to be eliminated and its functions was going to be merged with the Department of Foreign Affairs and International Trade. CIDA’s poverty-alleviation mandate would still be retained, but it was also integrated with the government’s foreign policy and trade objectives, which was to “vigorously promote and defend Canadian interests and values abroad” (Macrae, 2013a). Development professionals were already concerned as early as 2006 about CIDA’s co-funding of development projects in several communities where Canadian mining companies operate (Macrae, 2013b). Canada’s International Development Minister Julian Fantino had already made it clear that aid should advance Canada’s interests. “CIDA’s work with mining companies would help them compete on the international stage while ensuring they are contributing to sustainable development in poor countries.” (Fantino cited in Macrae, 2012)

It should be kept in mind that the Canada’s global mining presence is staggering. In 2016, total Canadian mining assets (CMA) were held by 1,344 companies which amount to 254.4 billion. Of this total, 651 companies had Canadian mining assets abroad (CMAA) worth \$163.9 billion. Natural Resources Canada (2018) reported that Canadian companies were present in 110 countries in 2011. CMAA accounted for about thirds of the total CMA in 2016. Majority of CMAA (68.6%) were also located in the Americas with Latin America and the Caribbean accounting for 54% of CMAA with a value of \$88.0 billion in 2016.

CHAPTER 5

THE PHILIPPINE STATE, MINERAL LIBERALIZATION, AND MINDANAO

The new Philippines Mining Act of 1995 included unprecedented stipulations for environmental protection and social development. Previous mining laws focused mainly on mineral extraction for economic growth and revenue generation for the national government. However, the new mining act was intended to alleviate poverty and improve the country's sluggish economy by liberalizing the mining industry.

TVI Pacific's Canatuan project was the first foreign-funded mining project to undertake operations under the new mining act. As one of the Philippines' 21 flagship mineral projects, TVI was considered a visible public test for companies that were considering investment in the country (Rovillos and Corpuz, 2012). In the bigger picture, TVI's Canatuan project served as a test case for the Philippines' neoliberal approach to alleviate poverty and improve the economy through mineral liberalization under this responsible mining framework. Upon closer examination of TVI Pacific's Canatuan Project (1994-2014) and its economic contribution to the country, the community seemed to benefit the least from the mining operations. They also bore the larger costs of mineral development: the desecration of Mount Canatuan, the Subanos' sacred mountain (Gulang Gukom, 2011); the manipulation of Indigenous governance system (Sanz, 2007); and abuses of human rights (food blockade, harassments) (AMGP et al., 2007). Thus, the Philippine Mining Act 1995 provisions must be re-examined and compared with the actual impact upon communities in Mindanao, Southern Philippines.

This chapter examines the Philippine State's mineral liberalization in the context of Mindanao's uneven and underdevelopment. Through discourse analysis of development policies, I will analyze the State's conceptualization of community and sustainable development in relation to mining in Mindanao. Doing so will situate the Philippine state's stated resource policies within Mindanao's history of development and cultural diversity. These development and cultural diversity are complexities that are typically oversimplified and hence not visible, but whose actual realities on the ground challenged.

Two factors account for why the community stood to benefit the least in Government's mineral liberalization policy. The first is the neocolonial and neoliberal ideology that underpins the State's sustainable development framework. The Philippine State's vision and discourse of Mindanao as a resource-rich island is blind to Mindanao's history of development that caused adverse and, at times, irreversible harm to its environment and its communities. The second factor is the State's ahistorical and simplified conceptualization of *community* that disregards Mindanao's historical cultural diversity. Combined, these two factors resulted in a complete disconnect between the national agenda—bringing an inclusive and sustainable development through mineral liberalization—and the actual local realities—the adverse consequences of mining on Mindanao's diverse communities. Such disconnect creates conditions for the inequitable distribution of costs and benefits of mining, tilted in favour to the Philippine State and the company and against the communities in Mindanao.

5.1 Analytical Approach

Central to Bryant and Bailey's (1997) drawing on the concept of politicized environment is the importance of locating environmental problems within the political and

economic contexts within which they were created. They argue that any environmental change, development project, or agenda has “political sources, conditions and ramifications that impinge on existing socio-economic inequalities and political processes.” (Bryant and Bailey, 1997, p. 28; Bryant, 1992). These political sources and processes are linked to colonialism, globalization, capitalism, and neoliberalism. In such a politicized environment, three outcomes are expected. First, the costs and benefits are distributed unequally among actors. Second, such inequality usually reinforces or may reduce existing social and economic inequalities. Third, the power relations among actors are also altered due to the differentiated social and economic impact of environmental change. In summary, any changes in the environment not only generate wealth for some while economically depriving others, but also change actors’ abilities to control or resist other actors. Such consequences intensify social and economic inequalities due to increased power differentials in the struggle for resources.

Following Bryant and Bailey’s (1997) actor-oriented approach, this chapter focuses on the state and community. States disproportionately influence the patterns and conditions for how diverse actors interact with the environment. States have historical and contemporary roles in politicizing the environment with their sovereign ability to act in the name of “national interest” (Bryant and Bailey, 1997). States are closely associated with capitalist development because of their political, economic, and strategic interests in exploiting the resources within their scope. In pursuing such interests, states impose reductionist simplifications to manage and control society and resources to maintain or increase their power and generate economic surplus (Scott, 1998). However, in their drive to achieve economic surplus, natural resource extraction often goes beyond what is sustainable (Walker, 1989)

States have a dual role. They advance the neoliberal agenda that accelerates the ongoing commodification of nature, and they are actors that find solutions to environmental problems (Bryant and Bailey, 1997). States have power. Their participation in power relationships makes them too often beholden to the interests of foreign corporations, capitalists, and elites. Thus, states may use overt and coercive force to introduce environmental changes and/or deploy ideas and discourse through its laws and development policies that reflect the interests of the elite (Bryant and Bailey, 1997). However, as Bryant and Bailey (1997) note, the state's interests may not always coincide with capitalists' and elites' interests.

With the growing impacts of globalization and neoliberalism, the notions of *community* and *social cohesion* are more problematic (Putnam, 2000, 2001; Giddens, 1998; Rifkin, 1995; Bauman, 1994). In fact, there is no consensus as to the meaning, experiential content, and behavioral outcomes of interaction with others in community (Bauman, 2001). That said, this study conceptualizes *community* both as a demarcated physical space and as clusters of social interaction where the identity of a place is constructed (Gupta and Ferguson, 1992 p. 8). It is always in flux and exists only if there is action and an ongoing process of societies and histories (Studdert, 2005). The community has a range of ideological positions (Chambers, 1983; Li, 1996) and subgroups with different and contradicting interests (Tiani, 2001). It is never homogeneous. Group differentiation in community is formed through clusters of interaction (Gupta and Ferguson, 1992) and fragmented social, economic, and political processes that take place in specific spatial and temporal circumstances and contexts, such as colonialization and development projects (Appadurai, 1996; Anthias, 1998, 2001; Li, 2000). Differences and conflicts may arise in communities due to ethnic identity, kinship, gender, worldview, economic differences, social status, age and education. These variables, when linked with power and resource use, may

reinforce or challenge existing social and economic arrangements (Schmink and Wood, 1987). Power enables an actor or social group to influence another actor's or social group's ability to control their interactions and the interactions of others with the environment (Bryant and Bailey, 1997). This influence can also occur when an actor monopolizes a valued resource (e.g. minerals) to ensure that a powerful actor accumulates economic benefits disproportionately, if not exclusively. Power may also influence the location of a resource development or extraction site, the prioritization of development projects, and the addressing of environmental problems (Bryant and Bailey, 1997).

Power is also produced and perpetuated through discourse, which justifies and legitimizes a way of thinking or doing things, such as in resource use and management. Discourse involves a “specific ensemble of ideas, concepts and categorizations that are produced, reproduced and transformed to give meaning to physical and social relations” (Hajer, 1995, p. 44). This ensemble is embedded in social institutions. Thus, discourse can be “identified by the institutions to which it relates and by the position from which it comes and which it marks out” (MacDonell, 1986, p. 2-3). Discourse then is not neutral, particularly in relation to development agenda, resource use, and resource management. The state would advance ideas that combine language, symbols, and technology that construct and shape the development agenda and constrain potential opposition. Discourse accepts, justifies, and naturalizes forms of knowledge and ways of doing things in relation to sustainable development, the use and management of environment and natural resources, and social identity construction. Hence, discourse contributes to the social construction of *the other*, and the exclusion of other forms of knowledge and ways of doing things.

This study uses discourse in the (re)production of and challenge to dominance, which elites, institutions, or groups exercise in their use of social, economic, and political power that results in social inequality (van Dijk, 1993). The reproduction process involves different modes of discourse-power relations, which can take the form of overt support, enactment, representation, legitimation, denial, mitigation, or concealment of dominance (van Dijk, 1993). Because this study specifically examines the Philippine government and its discourse on mineral liberalization, community, and sustainable development in mining, it is framed to pay attention to “top-down” relations of dominance. That is, attention is focused on the State and its discursive strategies to justify mineral liberalization and maintain inequality.

5.2 Mindanao’s History of Development and Environmental Degradation

In the colonial, postcolonial, and neoliberal periods, the Philippines government deployed at least three main discourses pertaining to Mindanao and its resources. First, it was called a “land of promise” during the American colonial government. Second, it was labeled a “land of opportunity” in postcolonial Philippines beginning in the 1950s. Third, it became known as the country’s “bowl of minerals,” a phrase recently coined by the Philippine government within the neoliberal era. Framing Mindanao in these way resulted in uneven and under development, conflict, violence, and environmental degradation, such that Mindanao’s communities have borne most of the costs.

The Philippines was colonized twice: first, by Spain for three hundred years (1521-1998), and second, by the United States between 1898 and 1946. Under the American colonial government, the island groupings of Mindanao and Sulu were integrated into the Philippine national body politic. Since Spain had never fully controlled these areas, the Sulu sultanate developed commercial and political links with Muslim societies in Southeast Asia. A slave

economy had also enriched Mindanao's sultanates, making them capable of resisting American occupation (Abinales and Amoroso, 2005). By contrast, the US applied a different strategy to colonize Mindanao (Abinales, 1998; Casino, 2000). First, military rule (from 1899 to 1903) subjugated resistance from different Muslim and Indigenous groups. The area was then transitioned to civilian rule (1903 to 1913), organized with a politico-military administration known as the Moro Province. Finally, between 1914 and 1920, the civilian government was reorganized as the Department of Mindanao and Sulu (Abinales 1998, Casino 2000).

Under the American colonial government, Mindanao's political economy changed from a people-resource-based economy where captives and slaves were measures of wealth to a land- and natural-resource-based economy (Warren, 1997; Junker, 1999; Casino, 2000; Abinales and Amoroso, 2005). The land tenurial system was reorganized from communal to individual ownership, a key economic foundation central to the American capitalist orientation (Casino, 2000, p. 75). After this point, land and minerals were viewed as strategic resources by Americans eyeing extensive exploitation of the country's natural resources (Abinales 1998, Gaspar, 2000, Casino, 2000; Tujan and Guzman 2002). Agricultural colonies were established (Philippine Commission, 1915; Pelzer, 1945). Various land acts were also legislated to justify resource exploitation for US consumption, resulting in the alienation of the Moro and Indigenous peoples. All land holdings were required to be registered with the colonial government. Non-compliance meant a technical confiscation of lands from private entities, including those occupied by Indigenous peoples and Moros of Mindanao, who were ignorant of the land titling system or were too poor to have their lands surveyed and titled (Tujan and Guzman, 2002, 31). The US government also introduced mining laws that allowed all lands owned by the colonial government to become privately owned for consumption and exploration.

During this era, Mindanao was depicted as the “land of promise” for political reasons. The Government wanted to depopulate the growing population in the Northern and Central Philippines to allow the large, export-oriented plantations to remain in the Northern Philippines and continue to use vast amounts of land. The “land of promise” discourse encouraged migration from these regions to Mindanao. In addition, this image enticed Christian settlers from all over the country to migrate in Mindanao, which allowed the Government to avoid distributing land to the peasants. The migration also hastened the ethnic, cultural, and political integration between Christian migrants and Mindanao’s Indigenous inhabitants (Abinales, 1998; Casino, 2000). This state policy resulted in more agricultural colonies in Mindanao, which resulted in Mindanao’s uneven development (Abinales, 2007).

In the 1950s, after the American occupation, the Government portrayed Mindanao as the “land of opportunity” for any enterprising settler to exploit its natural and mineral wealth (Abinales, 2007). With a migration policy that provided land to migrant settlers, Mindanao’s land and natural resources were exploited at an unbridled rate.⁵⁰ Large-scale timber operations “delivered the penultimate blow to the already precarious Indigenous hold over their ancestral territory” (Gaspar, 2000, p. 35) and destroyed Mindanao’s environment.⁵¹ Mindanao’s timber and lumber producers became the country’s most important suppliers of wood and forest products, contributing at least 56% of total Philippine commercial forest products sales

⁵⁰ Migration and population pressure also contributed to the denudation of Mindanao’s forests cover. From being a frontier region with a mere 5.9% of the country’s population in 1903, it ballooned to 23.2% in 1990. From 1950 to 1970, boatloads of migrants went to the south (Magdalena, 2000). Within this period, nine of the ten fastest growing provinces in the Philippines were found in Mindanao (Costello, 1992).

⁵¹ For instance, the Weyerhaeuser Corporation owned 72,000 hectares in Basilan and other parts of Mindanao. The Boise-Cascade Corporation had a concession of 42,800 hectares. Georgia Pacific Corp, through its Philippine subsidiary, the Lianga Bay Logging Corp., had 92,800 hectares in East Mindanao" (Gaspar 2000: 33).

(Abinales, 2007).⁵² Due to the logging industry's privileged position, a policy was also established to prevent logged-over areas to be reverted to forestlands. Thus, the forest lost more and more natural space to pasture lands and agricultural plantations (Casino, 2000). Logging and mining quickly developed into a major power nexus. The logging industry positioned its representatives and defenders in major government branches and at the local levels (Vitug, 1993; Casino, 2000). Encouraged by post-war parity laws, which put non-Filipinos on an equal footing with Philippine nationals, American investors also exploited the area's natural resources (Casino, 2000, p. 88). These economic agreements with the United States resulted in an influx of foreign investors into logging and mining holdings, which further depleted the Philippines' forest.

The Philippine State's development policies (migration, logging and mineral resource extraction) resulted not only in environmental degradation and the marginalization and displacement of Mindanao's Moro and Indigenous peoples, but also by the 1970s, in rebellion and social unrest (Rodil, 1992).⁵³ To pacify dissent, the Government under Marcos' dictatorship created development programs and channeled borrowed funds through the International Monetary Fund/World Bank's structural adjustment program into Muslim Mindanao areas (as well as his private bank account) (Abinales, 2007, Casino, 2000). Mindanao was also declared a land-reform area, which started another wave of migration and furthered Muslims' and Indigenous peoples' dispossession. The country's development paradigm was premised on the belief that a comprehensive and systematic exploitation of the country's human and natural

⁵² Mindanao, with a vast 61,576 sq.km. of forest cover in 1950, had, by 1987, only 46% left (Kummer, 1991, 1992).

⁵³ The Moro National Liberation Front (MNLF) waged an armed revolution in 1974 to take back Mindanao and Sulu – ancestral lands of the Bangsamoro, who had been marginalized along with the lumads (indigenous peoples) (Rodil, 1992). The former dictator Ferdinand Marcos used this condition to justify Martial Law.

resources, particularly Mindanao's, would create growth (Abinales, 2007).⁵⁴ However, agricultural enclaves increased as the export-oriented agricultural sector increased its productivity. More investments poured into non-Muslim-dominated areas that happened to be settler zones (Abinales, 2007). This increased population also caused Mindanao's under and uneven development, with the Christian provinces advancing while the Muslim provinces deteriorated. Development enclaves also occurred in Christian provinces due to the export-oriented agriculture, which had few connections to the local and the national economies that targeted the world markets. Mindanao's natural resources were used for patronage politics that entrenched politicians in power (Vitug, 1993). Local resources, both natural and labor, were siphoned out, adversely aggravating rural underdevelopment (Abinales, 2007).

In the 1990s, the country liberalized its mining industry as a condition of its structural adjustment program. In the current neoliberal Philippines, Mindanao now represents the country's "bowl of minerals." The island had an estimated 44 percent of the country's total copper mineral resources, 76 percent of the total gold deposits, and 57 percent of its nickel deposits (Disini in Abangan 2011). Of the Philippine government's 21 mineral liberalization flagship projects, 11 were in Mindanao. Most of these projects are also located in non-Muslim areas (cf. map of Environmental Science for Social Change, 1999). With the country's mineral liberalization policy, Mindanao's environment has been further degraded, putting watershed areas at risk. Currently, 75 mining projects in the country are operating in watershed areas, 37 of which are in Mindanao (DENR, 2016). Poverty and uneven development still persist. Thus, the Philippine State's

⁵⁴ This perspective "dovetailed with those of the technocrats he hired – economists and engineers with PhDs from the top American schools – and multilateral aid agencies like the World Bank" (Abinales, 2007, p. 88).

conceptualization of sustainable development must be examined in the context of mining generally and within the history of mining specifically.

5.2.1 First Disconnect: Mineral Liberalization & Sustainable Development

Since it was defined in 1987, sustainable development has become a “chameleon-like discourse” that has been “(re)interpreted and deployed by a range of interests to legitimate and justify a range of often contradictory and divergent agendas” (Raco, 2005, p. 329).⁵⁵ It is viewed as contentious, political (Jacobs, 1996), and ambiguous (Lele, 1991; Hopwood et al., 2005). However, the meaning is moving towards development-centered (IUCN, 1980 p. 1), human-centered, and growth-centered (Reed, 2002, p. 206), and equity-centered (Brundtland et al., 1987) development.⁵⁶ Currently, there are at least 70 definitions of *sustainable development* (Lozano, 2008) indicating that it is continually being re-defined (Bebbington, 2001; Hopwood et al., 2005; Kirsch, 2010). The global mining industry context uses at least 11 definitions of *sustainability* in mining (Onn and Woodley, 2014). On one end, sustainable mining is conceived in terms of mineral resources depletion, environmental degradation (Von Below, 1993), and rational mineral resource use (Allan, 1995).⁵⁷ It is also theorized in terms of environmental quality, economic growth, and social justice (Eggert, 2006), and of its contribution to the wellbeing of the environment and of communities (Gibson, 2000). On the other end, sustainable mining is regarded as an oxymoronic term (Rajaram, Dutta, & Parameswaran, 2005) that the mining industry deploys to manage its critiques (Kirsch, 2010; Benson and Kirsch, 2010). The middle ground position holds the views that both that the oxymoronic sense of sustainable mining and that sustainability and mining are not necessarily antithetical (Horowitz, 2006, 307). Horowitz (2006) argues that good

⁵⁵ The terms *sustainable development* and *sustainability* are used interchangeably (Lozano, 2008) and applied in numerous contexts with “resulting changes [that] should not be seen as politically innocent” (Kirsch, 2010, p. 89).

⁵⁶ See IUCN’s (1980, p.1) development-centered approach. For in-depth discussion of sustainable development concept evolving into a human-centered and equity-centered to growth-centered discourse, see Reed (2002, p. 206).

⁵⁷ This is in terms of not exceeding the mining industry’s capacity to look for new sources and substitutes, or to recycle (Allan, 1995).

environmental and social management entails an increased level of social responsibility. The global mining industry continues to grapple with how the sustainability agenda can exist alongside traditional profitability (Onn and Woodley, 2014). Like the concept and practice of sustainable development, sustainable mining is conceptualized based on contextual conditions, the differing interests, and the power relations of various actors.

In the Philippines context, the State's notion of sustainable mining rests on the idea of mineral wealth (taxes, jobs created, foreign exchange earnings and regional development) that will lead to other wealth-generating opportunities and environmentally-responsible endeavors (DENR 1996, p. 175). Associated with this notion is that view that the land and its resources are important commodities. Once land generates wealth through mining, it is assumed that the progressive and engineered mine rehabilitation work done in cycle with mining operations (DENR Administrative Order 96-40, 1996, 175) will lead to optimum land use. Thus, sustainable mining also means temporary land use. The State's notion of sustainable mining also includes the conservation of minerals by using efficient mining technology during operations and in recycling mineral-based products to lengthen the usable life of mineral commodities.

In 2004, the Philippines State shifted its discourse from "sustainable mining" (DENR, 1996) to "responsible mining" (Executive Order 270 Sec. 1) and from "tolerance to promotion." Thus, mining became the country's priority economic activity. The objectives remained the same: to attain economic growth and adhere to the principles of sustainable development with due regard for justice and equity. Responsible mining emphasizes mineral wealth, which the State perceives as critical for national development and poverty alleviation. To promote mining, the State instituted stable and predictable investment and regulatory policies for mining investments. It also provided legal provisions to encourage downstream industry development, and promote small-scale mining as a formal sector. The new responsible mining policy relies on

efficient technologies to enhance the sustainability of non-renewable mineral resources. The policy also stipulates that the environment is of “paramount consideration in every stage of the mining operation” (Executive Order No. 270, Sec.2f) and that affected areas’ ecological integrity shall be upheld. Under this framework, mining is to be pursued within the framework of multiple land use and sustainable use of mineralized areas (Executive Order 270, Sec.2h). The framework stipulates that economic and social benefits among various government units and affected communities will be shared equally. Sustained information, an education and communications campaign, and continuous and meaningful consultation with the industry and all other stakeholders is also to be undertaken. Finally, the responsible mining framework requires the remediation and rehabilitation of abandoned mines.

With its new responsible mining framework, the Philippine State aimed to have an integrational approach to sustainability that encompasses the economic, environmental, and social aspects of development and the relations among them (Lozano, 2008; Elkington, 1998, 1999). While such conceptualization is unproblematic in principle, it is hard to achieve in practice, since the economic, environmental, and social pursuits are likely to be imbalanced due to stakeholder pressure and economic constraints (Langer and Schon, 2003).⁵⁸

Thus, the national and local realities are more complex than policy models suggest (Li, 2002). To be an effective strategy to reduce poverty, the World Bank estimates that mining must have a share in one or all of the following: (a) > 5–10 percent of fiscal revenue; (b) > 10– 25 percent of export earnings; (c) > 3–5 percent of the gross domestic product (GDP); or (d) > 10–15 percent of the industrial workforce (Weber-Monikahr et al., 2001). From 1997 to 2014, however,

⁵⁸ Note that the Philippine State justified mineral liberalization based on two assumptions that emphasizes economic aspects. The first was that underutilization and mismanagement of the country’s abundant natural resources, particularly mining, was a major cause of poverty, especially in the countryside. Second was that mineral liberalization will solve the country’s economic woes (NEDA, 2004).

The Philippine mining industry contributed only, on average, 3.34% in total exports, 0.7% in GDP and 0.43% in total workforce (Mines and Geosciences Bureau, 2016). With a contribution of only 0.7% to the country's economy, mining has been overshadowed by what the Filipino household workers in the Philippines and abroad are contributing. In 2011, Filipino maids contributed at least Php 167.4 billion worth of services and remittances. By contrast, the mining industry contributed Php 122.1 billion in gross production value (Ibon Foundation in Ordinario, 2012).

The Philippines mining industry's contribution to inclusive growth is also found wanting. While other sectors have on average at least 20% compensation, mining registers only 13%. It receives little input from other industries with a backward linkage index of only 0.46% and low contribution to other domestic economic activities with a forward linkage index of only 0.82% (Habito, 2010). Also, the mining industry provides little value-adding and processing in the domestic economy since the bulk of the industry's product is exported as raw material, and hence does not generate employment and industry linkage (Habito, 2010). The Philippines has a narrow resource base to finance capital-intensive processing and manufacturing activities in mining, not to mention a limited domestic market to absorb processed and manufactured mineral products (Israel, 2010).⁵⁹

Generally, the mining industry has also fallen short from its target amount of mineral revenues (Olchondra, 2011). The Chamber of Mines of the Philippines, an association of companies engaged in exploration, mining and mineral processing, and in services industries including professional associations, blames the low revenues on small-scale miners, who deliberately misstate their tax obligations (Olchondra, 2011).⁶⁰ On the other hand, Bantay Kita, a coalition of civil society

⁵⁹ As of 2010, only copper and gold products could complete the different mining stages from exploration to fabrication.

⁶⁰ The small-scale miners would use "gross production value", which is the actual amount that miners were able to sell their output, instead of "gross output" or the market value of minerals and mineral products produced per mine,

organizations in the Philippines that are advocating for transparency and accountability in the extractive industry, argues that the state's privileging of large-scale mining caused the low mineral revenues. Under the new mining act, foreign mining companies can own 100% of investments and up to 81,000 hectares onshore and 324,000 hectares offshore. Furthermore, they can repatriate all profits and investment, can be guaranteed against state expropriation, and can have mining leases of 25 years, with right to renewal for another 25 years and so on (Nettleton et al., 2004). The state also provides several incentives during the pre-operating and recovery period for the mining company to recoup the risk capital in five years.⁶¹ Except for the excise tax on minerals (2% of the gross output from minerals produced) and all local government taxes, the company is exempted from all national government impositions. Also, the mining act stipulates that the Government collects its share (if warranted) only when the company has fully recovered its pre-operation, exploration, and development expenses, inclusive only during the post-recovery period. If the company has incurred a net operating loss in its mining operations without the benefit of income tax-accelerated depreciation, its operation may be carried over as a deduction from taxable income for the next five years immediately following the year of such loss (Republic Act 7942, Sec 246).⁶² Ragos (2016), in his study on the Philippines' coal mining industry, showed that such revenue sharing and generous incentive scheme favours operators at the expense of the public.

The Philippines' national–local government revenue sharing also disadvantages the host and neighboring communities. The country's Local Government Code stipulates that government revenues are appropriated as follows: 60% to the national government and 40% to local

which should have been used for tax purposes. The large-scale mining corporations in contrast have paid at least Php 1.4 billion in excise taxes alone in 2011 (Olchondra, 2011).

⁶¹ This is reckoned from the date of commercial operation, or until the date of actual recovery, whichever comes earlier (R.A. 7942 Sec. 236).

⁶² But this will only be availed if the Contractor did not opt for the incentives provided in the Executive Order No. 226 or the Omnibus Investment Act of 1987.

government units (LGUs). In turn, the 40% that goes to LGUs will be distributed to the provincial government (20%), municipality (45%), and barangay (35%). In reality, mining revenues through excise tax are often either under-remitted or not remitted at all by the national government to the LGU (Halcon et al., 2007).⁶³ Fully accessing these revenues by the LGU would allow them to create programs to benefit local communities. However, “these payments are highly vulnerable to abuse due to the absence of an appropriate mechanism for the public disclosure of large potential payments from mining companies and the utilization of mining taxes by LGUs” (Halcon et al., 2007, p. 3). Cronyism, corruption, and graft are prevalent in the Philippine mining regulatory regime, which allow for regulatory capture (Vivoda, 2008).

Thus, while the Philippine State’s integrational perspective of sustainable development in theory is unproblematic and ideal, in practice it is flawed and difficult to implement. The Philippines State’s neoliberal assumptions and mineral liberalization policy governance have privileged the economic aspect of sustainability to favour the mining company. The State also continues to perceive Mindanao as a frontier, despite its environmental degradation that occurred due to the Philippine state’s development policies. As it is, the Philippines’ “environment and natural resource base... continue to generally degenerate” (National Economic Development Authority, 2004, p. 25). Various indicators (forest cover, soil erosion, air pollution, and water pollution) show that the country’s environment and natural resources continue to have a poor overall index rating class and low sustainability rating (National Economic Development Authority, 2004). Massive deforestation and mineral exploitation have long caused environmental and land degradation (Broad and Cavanagh, 1993; Kummer, 1992, 1991; Emmanuel, 1990; Lynch

⁶³ In a bid to ensure that mining revenues will go directly to the LGUs, hence, to the host and neighboring communities, the League of Municipalities has passed a resolution that calls for the formulation of implementing rules and regulations on the release of their share of mining revenues directly to the LGU (Philippine Information Agency, 2007).

and Talbot, 1988; Myers, 1988). Such degradation has adversely affected the poorer and weaker actors, since environmental issues are also livelihood issues (Bryant and Bailey, 1997). In some cases, land degradation means the loss of social and cultural meanings and values since land could be regarded by a community as an economic resource, political territory, and cultural and spiritual base (i.e. a sacred mountain) (Hirsch in Alejo, 2000). With mineral extraction, the land's multi-dimensional meanings and values are potentially reduced or obliterated, which can cause displacements, internal migration, and severe social disruptions such as rebellion, intergenerational conflict (Filer, 1990; Macintyre and Foale, 2004), the marginalization of women (Eftimie et al., 2012; Lahiri-Dutt, 2011), and human rights abuses (AMGP et al., 2007).

The Philippine State's adoption of neoliberalism and a mineral liberalization policy has disadvantaged communities. The neoliberal policy is a process—a diverse and interlinked set of practices—not a “thing” that is inert and static (Heynen and Robbins, 2005). It is also an ideology and a political and economic project at that same time, which promotes an aggressive form of capitalism (Holden, 2011). It involves among others, “the opening up of previously closed economies to the forces of economic competition, macroeconomic discipline, globalised rather than national economies and foreign direct investment” (Blakeley, 2009, p. 5). However, I have to assert here that instead of viewing neoliberalism as a unified set of policies or political ideology, I see it to be of many variants. Just as there are multiple globalizations, there are also multiple neoliberalisms with processes that produce spaces, states and subjects in complex multiple forms, and articulate with other political projects that give rise to unexpected outcomes (Larner, 2003). What these variants and their corresponding techniques are were already being examined. For instance, Brenner, Peck & Theodore (2010a) argue that the “problematic of variegation is central to any adequate account of marketized forms of regulatory restructuring and their alternatives

under post-1970s capitalism” (p. 182). Thus, their focus is on the cumulative impacts of successive ‘waves’ of neoliberalization upon uneven institutional landscapes. These include regulatory experimentation, interjurisdictional policy transfer, and the formation of transnational rule regimes (Brenner, Peck & Theodore, 2010a, 2010b).

What is of most interest to me, however, is the consequences of modernity of which neoliberalism is integral to its further development and unfolding. The neoliberal system has generated enormous profits for multinationals, financial institutions and venture capitalists while grossly increasing the gap between the rich and poor, and deepening the divide within and between countries in terms of income, access to health and life chances (Hall, Massey & Rustin, 2013) Scholars (e.g. Beck, Bonss, & Lau, 2003; Beck, 1999; Beck, Giddens & Lash, 1994) contend that the social structures of the post-war order have become contingent that they view that developed society has reached what they refer to as “second modernity” or “reflexive modernization.” Both concepts recognize and attempt to address the “‘meta-change’ of modern society that results from a critical mass of unintended side-effects,” which are “host of consequences resulting from the boundary-shattering force of market expansion, legal universalism and technical revolution. (Beck, Bonss, & Lau, 2003, p. 2). If *first modernity* or simple modern society was synonymous with the nation-state and other stable systems of coordinates, the shape of second modernity is still being negotiated and that it is stripping away the nation- and welfare state. This compels modernization to question its own basic premises. Hence, reflexive modernization wherein reflexive means not an “increase of mastery and consciousness, but a heightened awareness that mastery is impossible and that control over actions is now seen as a complete modernist fiction” (Latour, 2003, p. 36). It is also to be situated with Beck’s (1992a, 1992b) notion of risk that the “unintended consequences of actions

reverberate throughout the whole of society in such a way that they have become intractable” (Latour, 2003, 36).⁶⁴ It also means that in second modernity, we are to understand that consciousness does not mean full control. Beck (1992a) explains that in risk society it is not class and stratification positions that determines consciousness, but rather consciousness determines being. In the distribution and growth of risks, social risk positions arise wherein some people are more affected than others. In some of their aspects, they follow the inequalities of class and strata and bringing a fundamentally different distributional logic. There is a boomerang effect though where the risks of modernization would also strike those who produce or profit from them (Beck, 1992a).

Beck and his assistants’, however, noted that their conceptualization of second modernity and reflexive modernization is Eurocentric as they also suggested the possibility of “other modernities” (Beck, Bonss & Lauc, 2003, p. 7). Taking my cue from their prodding to study the effects of second modernity on non-European contexts, where the dynamic of reflexive modernization manifests its effects on the distorted milieu of postcolonialism as in the Philippine case, I trained my lens on Mindanao. With its culturally diverse populace, and context of historical injustice and long-running armed conflicts, the complexity in understanding the consequences of mineral liberalization is further compounded as I witnessed the outcome of colonialism by foreign countries, the internal colonialism of settlers from the North and Central Philippines, and the layers of state-imposed development agenda, are mixing with the effects of neoliberalism (e.g. mineral liberalization) and globalization in Mindanao, which became a part of

⁶⁴ While Beck (1992a) at the beginning of “Risk Society: Towards a New Modernity” defines risks as “the probabilities of physical harm due to given technological or other processes”, his five theses (p. 23-24) elucidates the social architecture and political dynamics in a risk society.

the Philippines' nation-state only at the turn of the 20th century. Such convolution has resulted to Mindanao's massive environmental degradation, inequitable wealth distribution, and wars.

Mineral liberalization is a condition of the World Bank/International Monetary Fund's (WB/IMF) structural adjustment programs (SAP), which provide financial loans to countries in return for reforms in trade protection, price incentives for efficient resource use, and budgetary allocations (Rovillos et al., 2003; Bello, 1999). SAP also serve as a precondition for the unfolding of neoliberalism intended to attain greater economic efficiency through liberalization, deregulation, and privatization. In the Philippines' context, the SAP had three phases: 1980–1983, which emphasized trade liberalization; 1983–1992, when the focus shifted from liberalization to stabilization and debt repayment; and 1992 to the present, which promotes radical liberalism through rapid deregulation, privatization, and trade and investment liberalization (Bello, 1999). Mineral liberalization came in the last phase. The World Bank regarded it as an excellent strategy to catalyze the Philippines' economic growth and community development (World Bank Philippines Country Management Unit East & Asia Pacific Region and International Finance Corporation East Asia and Pacific Region, 2005) and pay off the country's foreign debt (Neri in Sanz, 2005).⁶⁵ However, SAP also accelerated the ongoing commodification of nature, which can be examined through the relations inherent in manipulations of governance, increased foreign direct investments, land use and resource extraction (Heynen and Robbins, 2005). Neoliberalism in the Philippines has also caused greater income inequality and increased poverty in the country (Bello et al., 2005). Thus, the Philippine State's mineral liberalization and its neoliberal agenda have predisposed the

⁶⁵ The Philippines follows the Washington Consensus's ten policy objectives (Williamson, 1990), which resulted in greater income inequality and increased poverty incidence in the Philippines (Bello et al., 2005).

community to bear most of the irreversible environmental (Hore-Lacy, 1992) and social costs of mineral resource extraction.

5.2.2 Second Disconnect: Mindanao's Complexities and the State's Simplifications

Communities benefit the least in the Philippines' mineral liberalization policy due to the second disconnect—the state's ahistorical and “strategic simplifications” (Horowitz, 2003) of Mindanao's highly differentiated communities. A limited understanding of or insensitivity to the variations of ethnic identity, group formation and socio-economic differentiation creates conditions for the unequal distribution of the costs and benefits of mining (Foale, 2001). In addition, mining creates a community and locality of migrants, and these new local subjects can be named as *locals* and empowered to act socially. The section below will show how the state, through its laws and policies, frames, views and treats communities in relation to mineral development. It will then analyze how the state's conceptualization of community sets conditions for the unequal distribution of mineral development's costs and benefits.

5.2.2.1 Ethnic differentiation and resource access in Mindanao

In its mineral liberalization policy, the Philippines State conceptualizes community in terms of location and interest. A mining project has a host community and neighboring communities. The *host community* is defined as the people living at the barangay(s) outside the mine camp where the mining project is located, and *neighboring communities* refer to the people living in the village that are adjacent to the host community (DENR, 2000).⁶⁶ In terms of community as interest, the state defines it as stakeholders who may be directly and significantly affected by the mining project. These include the company, government agencies and LGUs that have mandates and jurisdiction over the project, local communities who may be affected by

⁶⁶ That is, areas covered by the mining tenement of the project, areas where mining facilities are located, and immediate areas which will be affected by the mining operations.

project impacts, locally-based or locally-active non-government organizations and people's organizations within the impact areas and other public sectors that may be potentially affected by the project based on an environmental impact assessment (DENR, 2003).⁶⁷

If the mining project is located within Indigenous lands, the Philippines' Indigenous Peoples Rights Act defines *Indigenous cultural communities* (ICCs) and *Indigenous peoples* (IPs) as follows:

a group of people or homogenous societies identified by self-ascription and ascription by others, who have continuously lived as organized community on communally bounded and defined territory, and who have, under claims of ownership since time immemorial, occupied, possessed and utilized such territories, sharing common bonds of language, customs, traditions and other distinctive cultural traits, or who have, through resistance to political, social and cultural inroads of colonization, non-Indigenous religions and cultures, become *historically differentiated from the majority of Filipinos* (emphasis added). ICCs/IPs also include peoples who are regarded as Indigenous on account of their descent from the populations which inhabited the country, at the time of conquest or colonization, or at the time of inroads of non-Indigenous religions and cultures, or the establishment of present state boundaries, who retain some or all of their own social, economic, cultural and political institutions, but who may have been displaced from their traditional domains or who may have resettled outside their ancestral domains.

With such a definition, the state's conceptualization of community as location and interest is at best functional, technocratic, and ahistorical. The state conceptualizes the host and neighboring communities as bounded and it assumes social cohesion, particularly in the far-flung areas where mining projects are usually located. Alongside this assumption is the belief that communities readily consent to mineral development because it is purported to generate jobs and alleviate poverty in the countryside where development and modernity are needed. While the state has

⁶⁷ The views and opinion of these stakeholders are usually solicited when conducting environmental impact assessments.

rightly identified stakeholders who are will be affected in mining, it perceives them as monoliths when they are not (Ballard and Banks, 2003). Each stakeholder described above is diverse. The host community and the company have communal multiplicities and cultural diversity, historical inequalities, hierarchy, and power relations that are centered around gender, age, ethnicity, education, social class, and ecological and geographic status (Banks et al., 2013). They also have different notions of development and land and resource management.

The IPRA's definition of Indigenous peoples as "homogeneous" is "anthropologically naïve" (Gatmaytan, 2007 p. 21). It was crafted through the combined efforts of idealistic NGOs and community activists who fought the Marcos dictatorship in the 1980s. As Gatmaytan (2007) notes:

NGO's, in particular, projected onto Indigenous peoples and 'communities' their own political fantasies – about Indigenous groups' innocence and isolation, the timelessness of their culture, their self-sufficiency and generosity, and their deep, natural concern for the environment – all of which are posed as implicit critiques of the state and its economic and cultural ideology. Since these NGOs collaborated in crafting the substance of IPRA, these fantasies were carried over into the law. (p. 22)

In effect, IPRA perceives Indigenous peoples to be static and confined in grids.

What this law embodies, however, is the culmination of a series of colonial policies, stretching back over 300 years, to deal with the Philippines natives. These policies were developed by the Spanish, American, and Philippine regimes and have caused ethnic and group differentiation that favours one group over another in relation to resource access and use. During pre-Hispanic Philippines, the natives of Luzon, Visayas, and Mindanao were, by definition, all Indigenous, in contrast to the Spaniards, who were foreigners (W. H. Scott, 1974). But after the Spaniards colonized the islands, they differentiated Indigenous groups as *moros* and *indios*,

which were politically and culturally loaded categories.⁶⁸ The labels were also homogenizing. The term *moro* did not differentiate the several Islamic tribal groups in Mindanao.⁶⁹ Similarly, the monolithic category *indios* failed to distinguish the different ethnic groupings in Central and Northern Philippines.⁷⁰ When more of Philippine natives were evangelized, the *indios* who were converted to Christianity were called *Cristianos*, and those who resisted and remained unconverted were called *Paganos*⁷¹ or *Infieles*, a term the successor American colonial government would later translate as “non-Christian tribes.” Those who chose to return to their traditional ways of life were called *Remontados* and *Cimarrones*. Centuries of colonization pressure resulted in the cultural bifurcation of the original *indio* population into communities that were hispanicized and communities that were not. This was the beginning of *minoritization* and *majoritization*. The lowlanders who embraced the colonial governance and legal systems, cultural and religious practices, language, and lifestyle had been transformed into the Christianized “cultural majority” (Gaspar, 2000).⁷² They could access and accumulate resources, receive protection from their enemies, and become educated, while those who fought Spanish control or fled to the uplands became by default cultural minorities. However, the Spaniards regarded the colonized natives as an entity separate from the Spaniards. The converted natives were viewed simply as Indigenous because they descended from the populations that inhabited

⁶⁸ The term *moros* was originally derived from the Spanish experience fighting the Arab moors of Southern Spain and North Africa, and was later applied to Islam tribes in Mindanao who were not Arabs but Malays. The term *indios* was accidental, from the fact that the Spaniards were then competing with the Portuguese in finding *las indias* or the Spice Islands. Because of this preoccupation with *las indias*, both Columbus in the Caribbean and Magellan in the Philippines gave the term *indios* to the indigenous peoples they encountered in their explorations. In the beginning the terms *naturales* and *indios* may have started as a neutral, descriptive category. But over time when contrasted with civilized Spaniards, *indios* took on a decidedly pejorative and discriminatory term which connotes primitive and thus inferior (Abella, 1979).

⁶⁹ The moro tribes include Tausug, Maranao, Magindanao, Yakan, Sama.

⁷⁰ For instance, Tagalog, Ilocano, Igorot, Pampango, Bicolano, and Cebuano

⁷¹ The term *paganos* survived in English translation as “pagan groups” or “wild tribes”.

⁷² These lowlander groups include the Bicolano, Bol-anon, Cebuano, Ilocano, Ilonggo, Pangasinense, Tagalog, Waray (Gaspar, 2000)

the country during conquest. The Spaniards treated the natives as a separate commonwealth, *la republica de los Indios*, with its own code of laws and its own set of magistrates. The segregation gave the commonwealth a kind of ethnic-territorial reality (Phelan, 1985, p. 121). The converted Indigenous people were only included in the category of *Filipino*, a term reserved for Spaniards born in the Philippines, in 1898 when Spanish colonial authorities sought their aid and loyalty against the United States (Jubair, 1999, p. 12). In time, the *Cristianos*, who were mainly concentrated in the coastal and lowland areas of Northern and Central Philippines, became the majority group among the natives. During the American colonial and postcolonial period, the *Cristianos* were encouraged by the State to migrate to Mindanao to ease peasant-landlord tensions in Northern and Central Philippines, who displaced the original inhabitants in Mindanao.

Under the United States, the boundary line between the *infieles* and the hispanicized became racialized, formalized, and juridical. The Americans declared the non-Christian tribes as racially distinct from the lowland Filipinos.⁷³ The American colonial government also established a governance system referred to as the Moro Province in Mindanao,⁷⁴ which was justified based on their inhabitants being non-Christians and non-Spanish.⁷⁵ However, many pagan tribal groups are inside and outside the boundaries of the Moro Provinces. They do not consider themselves *moros* or *Bangsa moro* (Rodil, 1992). Ethno-linguistic groups such as Subanos, Manobos, Mandayas, Mansakas, Banwaons refer to themselves as *Lumad*. *Lumad* is an

⁷³ The first Philippine census conducted in 1903 under American supervision formally installed Hispanic civilization as "the most important state racial boundary line" between Christians and non-Christians (Kramer, 2006, p. 224). The American decision to racialize the distinction between majority and minority indigenous communities is the most obvious ground for IPRA's conceptualization of "indigenous people" to the segment called "national cultural communities," as if the non-Christian tribes were the only indigenous peoples in the archipelago

⁷⁴ Another governance system was established in the Mountain Province in Northern Philippines.

⁷⁵ The non-Christian tribes were estimated to constitute "one eighth of the population of the archipelago" and the land they occupied had an area "calculated at almost half that of the Philippines" (Sullivan, 1991, p. 150).

acronym for *Lumadnong Alyansa Alang sa Demokrasya*—Indigenous Alliance for Democracy, which was formed in 1985. The people under the collective designation were differentiated from the rest of the population as “wild tribes,” “non-Christian tribes,” “cultural minorities,” “cultural communities,” “tribal Filipinos,” and now “Lumad.” It is an umbrella organization of 18 different ethno-linguistic (non-*moro*) groups in Mindanao. Its stated aims are for the protection of their Lumad people’s identity and rights; the protection of their ancestral domain; and the protection and preservation of their cultural heritage (Rodil, 2004, p. 41).

The Lumad people’s most acute problem is the preservation of what remains of their ancestral domains.⁷⁶ This loss of ancestral territory is one of the consequences of the State pushing to industrialize Philippine society with more intensive exploitation of the country’s natural resources. This is a neocolonial, export-driven, capitalist orientation in which the Indigenous peoples’ dislocation and dispossession are viewed as the collateral damage. The exploitation and loss of Lumad ancestral lands started in 1902 when the American colonial government established new land laws that displaced the Indigenous system of land and resource use, including the prohibition of Indigenous mining (NCSO & NEDA, 1979). It also imposed a new property rights legal framework wherein land, resources underneath, its use and ownership derived exclusively from formal land titles issued by the state which claimed all untitled land (Rodil, 1992; Libarios, 1997; Gaspar, 2000; Leonen and Ballesteros, 2001). These policies encouraged the entry of American corporations, hungry land-seekers and migrants into Mindanao’s frontier territories that were then thinly inhabited by Lumads (Gaspar, 2000). These incursions resulted in socio-cultural and economic changes to Mindanao’s Lumads. In his

⁷⁶ For the lumad groups, the assertion of collective identity within ancestral territoriality will grow even stronger due to Moro land claims in the on-going peace process between the Government of the Philippines and the Moro Islamic Liberation Front (MILF).

ethnography, Frake (1955) wrote that the migration of the Bisayan farmer-settlers would impact the Indigenous Subanos by ending their practice of shifting cultivation, which is the foundation of Subanon society. The migrants not only introduced non-fallowed, dry field plow agriculture that led to massive land degradation, but also forced the Subanos to adapt this farming method or go landless (Frake, 1955).⁷⁷ A new political system was extending over the Subanos through the growing Christian settlement that had a new and different market media, tax collection system, educational system, and land laws. They were particularly confronted with a challenge of how they would be able to secure their land and titling it with the provincial authorities when it was “costly and difficult for the illiterate Subanon” (Frake, 1955, p. 36). It also brought the Subanon people into the formal political system of the lowlander as a taxpayer and subject to the local official who was appointed by the municipal mayor. The Subanon felt “severely handicapped by [their] lack of knowledge of the legal and political system of the Christian settlers” (Frake, 1955, p. 36). The Government did not recognize the prior land-tenure system under communal ownership. Instead it rationalized ownership through new land laws, particularly the Torrens System, a system of land titling registration. The Philippines government’s system of land registration and allocation was discriminatory even to those Lumads who wished to follow the new rules because the land acts required that application for registration of title “shall be in writing, signed and sworn to by the applicant.” Since many Lumads were illiterate at that time, they were unable to comply. It was impossible to register a communal property of a tribe in the name of an individual, as communal ownership was not yet legally recognized. In effect, the new land laws dispossessed the existing

⁷⁷ Frake (1955) observed that there were already some Subanos who had successfully become wet-rice farmers, while some were attempting the sedentary dry-field cultivation with plow and water buffalo.

Lumad occupants and their descendants, thereby creating socio-economic differentiation among the Lumads, *moros* and migrant *Cristianos*.

Because of the resettlement, Indigenous populations naturally receded from their habitat in the plains upward into the forest areas. However, as Gaspar (2000) details, “Logging caught with them there, too... virtually leaving no room in the forest for the tribal peoples” (p. 35). As loggers cut Mindanao’s primary forests, they opened logging roads that allowed Christian land-seekers and settlers to penetrate deeper into Lumad territories. After 1995, mining ate up large chunks of Mindanao’s natural resources (Casino, 2000). The Mining Act of 1995 allowed miners to enter into Financial and Technical Assistance Agreements with the Government as a condition of conducting mining exploration and operation. Since the passage of the Act, the number of applicants has increased dramatically (Gallardo, 2004). Mineral development also attracted new ethnic and group identities to communities that have an existing social differentiation, adding further complications in power-laden relationships as different groups interact with each other. In effect, the state’s ahistorical and simplified conceptualization of community not only sets the condition for the unequal distribution of the costs and benefits of mining, it also reinforces existing social and economic inequalities in Mindanao communities.

5.3 Conclusion

The community benefits the least in the Philippines’ mineral liberalization policy because of two factors. First, the Philippine State’s neoliberal development policy frames its conceptualization of sustainable development in terms of mineral wealth. While it aims to have an integrational approach to attain sustainable development, the Philippine State was encouraged to implement a neoliberal development framework to bring in foreign mining investments.

Hence, the state privileged large-scale mining, which is largely foreign-owned, and provided incentives in addition to the lopsided revenue sharing that benefits companies and the state, but disadvantages communities. Second, the state simplified its conceptualization of communities and ahistorically imagined Mindanao as a frontier that has vast track of lands and pristine environment. This imagining justified the implementation of extractive development policies that caused Mindanao's environmental degradation. The island's Indigenous inhabitants were also marginalized due to the state's migration policy, which created development enclaves that favoured migrant ethnic groups, thereby resulting to its uneven development. Its simplified conceptualization of community is disconnected from Mindanao's culturally diverse society where 60 percent of the country's Indigenous groups are living. Ignoring this diversity through a homogenized conceptualization of community in Mindanao creates conditions for the unequal distribution of mineral liberalization's costs and benefits. Such simplifications and imagining of Mindanao, combined with the state's neoliberal paradigm, perpetuates conditions that further disadvantages the community.

CHAPTER 6

THE UNINTENDED CONSEQUENCES OF MINERAL LIBERALIZATION IN SUBANON LAND ON THE ISLAND OF MINDANAO, PHILIPPINES

The Philippine State's mineral liberalization policy, beginning in 1995, represents its intention to generate jobs, alleviate poverty, pay off foreign debt, and secure economic progress. Through economic incentives, along with total foreign ownership of investments, the government hoped that major international players in the global mining industry would invest in the Philippines. Cognizant of potentially adverse consequences of mineral development operations, the State's new mining regime, unlike previous mining laws, makes provisions to protect the environment and ensure community development. The Philippine government requires that companies develop and submit feasibility studies that projected mining revenues and assessed specific environmental impacts in order to identify future risks, mitigate negative impacts, and offer recommendations for decision-makers. Mining companies are also required to present a social development management plan (SDMP) and an environmental protection and enhancement plan (EPEP) to ensure sustainable development (Republic Act 7942). The Philippines Mining Act of 1995 and its implementing rules and regulations are designed to ensure positive outcomes. Nevertheless, despite such written good intentions in the legislation, the actual impact of mining operations can be highly varied, with both foreseen and unforeseen consequences: positive and negative, intended and unintended.

This study examines the impact of the Philippine government's mineral liberalization policy on communities. It is based on a specific case: Canadian-owned TVI Pacific's mining site in Canatuan, Zamboanga del Norte in Southern Philippines. It was the first foreign-funded

mining project that went into operation in 2004 following the passage of the State's 1995 mineral liberalization policy. In 2013, TVI Pacific officially announced closure of its Canatuan mining project. The two questions addressed in this research are: (1) did mining bring sustainable development to the community? (2) did the community benefit from mineral liberalization?

To answer these two questions, I am building on Bryant and Bailey's (1997) concept of a politicized environment in which the costs and benefits of mining are unequally distributed. I also use micro-political ecology approach (Massey, 2005; Woods, 2007; Horowitz, 2010) to inquire into the "politics of the negotiations of relations, configurations" (Massey, 2005, p. 147) at the local level to develop a richer understanding on the impact of mining in Canatuan on communities.

Assessing impact is not only about identifying and evaluating changes that occurred after a purposive action, which "involves motives and consequently a choice between alternatives" (Merton, 1936, 895), was taken. It is also about understanding the range and type of consequences involved, those that are known and anticipated as well as those that are unintended and unacknowledged/unrecognized.

In this chapter, I give attention to the unintended consequences of mineral liberalization policy and how such consequences play out in practice. Such a focus does not mean that the anticipated consequences of mining (e.g. job generation, economic benefits, community conflict, environmental degradation) are excluded. On the contrary, looking at both intended and unintended consequences will include a wider and more complex scenario on how mineral development differentially effects actors and how such varied effects can be examined including the various forms and construction of knowledge involved.

This chapter demonstrates that mineral development is a dynamic process with ever-changing consequences as actors improvise and strategize in response to the actions of other

actors. Thus, I am exploring how unintended negative consequences of mineral liberalization are produced, even when state policy has focused only on those actions intended to produce positive results. The argument here is that “unintended consequences” in mineral liberalization occur because of the state’s strategic simplifications, neglect, and even ignorance of the social and cultural contexts of peoples in Mindanao. In addition, such unintended consequences are due to differential power relations among different groups of social actors whose value systems are significantly different and whose worldviews are diametrically opposed. The values of Indigenous Subanos contrast sharply with neoliberal global capitalist practices of privileging economic interests over other values while refusing to consider future social and cultural outcomes. This chapter further argues that neoliberal mining policies/agreements in the context of government collusion with the mining company unevenly affect the different groups of people in the mining areas of Mindanao.

6.1 Approaching the “Unintended” and “Unanticipated”

Contemporary interest in unintended consequences of social action goes back to sociologist Robert Merton’s (1936) publication of “The Unanticipated Consequences of Purposive Social Action.” Consequences, according to Merton (1936), are “product(s) of the interplay of the action and objective situation, the conditions of action” (p. 895). He defines purposive action as conduct, as distinct from behavior, involving “action with motives and consequently a choice between various alternatives” (Merton, 1936, p. 895). Merton (1936) identified five limitations to “successful prediction and planning” (p. 903) that result in unanticipated consequences: 1) ignorance, 2) error, 3) imperious immediacy of interests that precludes the consideration of future outcomes, 4) the immediacy of basic values, and 5) “public predictions of future social developments that function as a new element in the concrete situation” (p. 903). From these five limitations come three types of

“unintended consequences of action”: 1) “those which are functional for a designated system, and these comprise the latent functions”; 2) “those which are dysfunctional for a designated system, and these comprise the latent dysfunctions”; and 3) “those which are relevant to the system” (Merton, 1968a, p. 105). Since Merton’s initial formulation, other scholars have expounded, critiqued, and veered away from his structural-functionalist approach on “unintentionality” (e.g. Mennell, 1977; Giddens, 1984; Tilly, 1996; Campbell, 1996, 1999, 2015; Portes, 2000, 2010; Gross 2003).

In approaching “unintended consequences,” I situate unintentionality as a necessary and intrinsic feature of all human action (Campbell, 1996, 1999, 2015). I also note here that there are not only different types of actions (Webber, 1964, p. 115), but also different “degrees of action” (Campbell, 2015, p. 54). Actors differ in the action they take and the degree of intensity or effort they exert in response to other actors’ purposive action (Campbell, 2015). Thus, taking action is not only a matter of choice but also a matter of intention, and an exercise of will-power. Because I see unintentionality as intrinsic to action, I am able to include in my attention emotions, imagination, intention, and the will-power of the subordinated actors who, deprived of power through force, are, nevertheless, intent on regaining power through their individual and small group agency. Thus, I regard unintended consequences not as effects of isolated social actions of individuals. Rather I consider them as products of collective action or collective phenomena (Mica et al., 2015) that go in all directions like ripples until, though they cannot be seen directly, still result in certain unintended structures and further consequences. Elias (1991) refers to this phenomenon as “unintentional human dependence” which underlies intentional interactions. He explains that because individuals and collectives are always seeking new social positions, their mutual interdependence continues to increase

that such interdependence comes to encompass societies beyond their immediate perceptions, thereby escaping their individual and collective control.

From Merton onward, theorists of unintended consequences have made a distinction between two dimensions: motivational, which refers to intention, and intellectual, which is expressed in recognition, anticipation, expectation, and prediction (Sztompka, 2015). When combined, these two dimensions result in at least four types of actions: 1) actions with consequences that are both expected and intended; 2) actions with anticipated but unintended

	intended consequences	unintended consequences
expected/anticipated consequences	(1) actions with expected & intended consequences	(2) actions with expected & unintended consequences
unexpected/unanticipated consequences	(3) actions with unexpected & intended consequences	(4) actions with unexpected & unintended consequences

Figure 6-1. Four types of actions resulting from combining motivational and intellectual dimensions (Sztompka, 2015).

results; 3) actions with results that are intended but not realistically expected; 4) actions with both unintended and unrecognized results which may be good or bad depending on the judgment of the individual involved or the collective affected (Sztompka, 2015) or the nature of the study being undertaken or theory being developed (Giddens, 1984). Additional conceptualizations of unintended consequence are found in the terms “perverse effects” (Giddens, 1987) and “counterfinality” (Elster, 1983). “Perverse effects” are contingent outcomes that resulted from structural contradiction (Giddens, 1984). For example, a law on supplementary benefits intended to help low income elderly people have raised their income level. As a consequence, they were

denied medical coverage making them worse off than before. “Counterfinality” points to implies a contradiction between intended and achieved results.

As I view the impact of mineral liberalization on communities through the lens of Sztompka’s four types, I do not attempt to distinguish between structure and action in relation to unintended consequences since unintended consequences have stronger links to structural dimensions. I make use of Giddens’ (1984) structuration theory, in which unanticipated consequences are viewed as fundamental to how society is constituted. Unanticipated consequences are produced through the dialectical relationship between social structure and individual agency by way of three mechanisms: 1) institutionalized practices, 2) interdependence of action, and 3) feedback loops. In the first mechanism, unintended consequences are a by-product of a set of structural conditions that simultaneously produce desired and unexpected outcomes. In the second, they are produced by purposive actions that are incongruent with actors’ expectations. In the third mechanism, unintended consequences spring from individual actions that changed the condition of actions for other actors, who in turn acted on the same condition. In each mechanism, the structure results in unintended consequences or outcomes that may result in additional unintended consequences. Thus, unintended consequences are produced by actors, structure, system, and are affected by reflexive processes.

Mineral liberalization, the Philippine State’s action to address its economic woes, is a feature in both industrial society and in “risk society” (Beck, 1996) which view unintended consequences differently. Unintended consequences within an industrial society perspective are viewed as justified and counteracted by knowledge (Mica et.al., 2015). Within a risk society perspective, the term “loses its plausibility” (Mica et al., 2015, p. 19) is used because the notion of unintended consequences is challenged by the amalgamation of knowing and non-knowing,

within which knowledge is construed as “social attribution and construction (Beck, 2009). There is no single, undivided truth, but hundreds of relative truths such that uncertainty is not “overcome by more knowledge but is instead a result from more knowledge” (Beck, 2009, p. 5). Thus, knowledge and ignorance have become blurred such that the notion of unintended consequences is dismissed (Beck, 1999). Beck instead suggests that the notion of unintendedness is further distinguished into aspects or dimensions of unawareness vis-à-vis hazardous unintended consequences. These aspects are as follows: a) selective reception and transmission of the knowledge of risk; b) uncertainty of knowledge in concrete and theoretical terms; c) mistakes and errors; d) inability to know which may in turn be known or repressed; and e) unwillingness to know (Beck, 1999, p. 122). These aspects are characteristics of “reflexive modernization” (Beck, Giddens & Lash, 1994) in which reflexive means “the advancement and the dissolution of industrial society coincide” (Beck, 1996, p. 104), a process which first occurred in the Second World War. Reflexive modernity is driven by greater unpredictability, decreasing control, and increasing unintended side effects (Beck, 1996; Giddens 1990).

Nevertheless, with such important qualifications and distinctions, the concept of “unintended consequences” remains an important concept in Beck’s “risk society.” The dominant self-evident truths of industrial society and the side effects of successful modernization, which produce patterns of unintended consequences, have given rise to a “risk society” (Beck, 1999, p. 73, p.28, Beck 1996). This suggests that “unintended consequences” are produced mainly through collective processes that run autonomously, no longer associated with individual intention and action (Mica et al., 2015). In the context of analyzing mineral liberalization policy and practices, “unintended consequences” can be seen as normal

manifestations of the high modernist project that is about to end.⁷⁸ High modernity is viewed to be fraught with risks and ambiguity such that assigning blame, exacting political accountability from powerful organizations, and apportioning justice are difficult, if not impossible.

In researching the unexpected in mineral liberalization, I used the ethnographic method to conduct a “careful analyses of social processes or the awareness of their concealed and unintended manifestations” (Portes, 2000, p. 15). My research is informed by my long-term engagement with the Siocon Subanos in Siocon Municipality and in the region. My total field work began in December 2003 and ending in September 2009, for a total of 41 months. In my ethnographic research, throughout the entire life-cycle of the mines, I used in-depth interviews, focus group interviews, participant observation, reviews of secondary literatures, and financial statements. In addition to field work among the Subanos, I also conducted fieldwork at other mine sites in various stages of mining to gain insights into the impact of the mining operations on the people and the environment.

The life-cycle of a mine can be viewed as typically four stages: (1) exploration, (2) development and construction, (3) extraction, and (4) closure and rehabilitation. In the case of the Canatuan mines, as well as for the other mine sites I visited, these stages when applied to the overall mining operation, are not easily separated into completely distinct and fully separate stages, but overlap, to some degree, in viewing the life of the mining operation. The consequences of the life-cycle view of the mining operation —intended, unintended, unanticipated, and unacknowledged—reveal a dynamic process. The stages change continually as the mining operation alters the environment, and these changes, in turn, depend on the ways that different

⁷⁸ Modernist theorists like Merton would more likely view unintended consequences as a pathological state that needs to be resolved (Mica et al., 2015).

social actors respond to change with its accompanying challenges. In a politicized environment, actors employ intuitive ways of dealing with the unexpected and in voicing their discontent (Mica et.al 2015). As Tilly (1996) notes, outcomes are attained through “desperate improvisation in the face of unexpected reactions” (p. 590). Thus, in this paper, social conflict, viewed as the collision between cultural ends and the structural opportunities presented by mineral liberalization, is not regarded here negatively. Instead these dynamic changes are seen to have emergent consequences that, while not necessarily positive, can lead to increased stability.

6.2 Surprises from the field: The Subanos and small-scale miners

The mining site is Mount Canatuan, located in Sitio Canatuan, in Siocon Municipality, Zamboanga del Norte Province in Mindanao, Southern Philippines. This area encompasses the local watersheds, which support the considerable irrigation system not only in Siocon, but also in the other neighboring municipalities. The local Indigenous Siocon Subanos regard Mount Canatuan as sacred and enchanted, since, in their telling, any Subano, who climbed Canatuan would either die or disappear in the forest. Canatuan became sacred when one of their ancestors made a covenant with an immortal being who resides in the forests on the mountain. Their ancestor promised that he and his people would protect and revere Canatuan in exchange for the Subanos’ safe passage into the mountain (Sanz, 2007). The Subanos kept their promise, even when a logging company came into the area and felled timber resulting in massive deforestation in Zamboanga. The Subanos negotiated with the company to leave Mount Canatuan alone (F. Molay, personal communication, March 2006), which explains why a logging road goes around the mountain through its foothills, leaving a verdant patch of forest up onto the mountain. The Subanos also vied to apply for forestry stewardship, a land instrument they could use to protect Canatuan and their Indigenous lands. At that time, the Philippine State had yet to recognize Indigenous rights for self-determination and their

rights over their land and resources. The ability of the Subanos to keep their covenant changed when miners arrived in Mount Canatuan.

Mining in Mount Canatuan followed a mineral-development succession—from artisanal mining to small-scale mining, and then to large-scale mining. In the mid-1980s, artisanal miners discovered gold veins in Canatuan Creek and duly asked the consent of the Subanos' chieftain to pan gold in the area. Since the Subanos used gold only for special rituals meant to appease the spirits, and their culture does not rely on gold, but on land and its produce, the chieftain agreed (J. Alog, personal communication, February 2004). The Subanos did not anticipate that small-scale miners from a neighboring mining town would soon come in droves, thereby transforming Canatuan into a gold rush area. The Subanos lost control over Mount Canatuan and were unable to protect its sacredness. They attempted to negotiate with the miners, but the miners threatened them and treated them with hostility (L. Tala, personal communication, 2007). They discriminated against the Subanos, ignored their leaders, and rejected their Indigenous governance system (E. Calida, personal communication, 2006).

The small-scale miners in Canatuan belong to the lower economic class. They are migrants from Northern and Central Philippines, who sought land, jobs, and livelihood opportunities in Mindanao. Many of them worked for a logging company until it closed down due to an economic downturn in the early 1980s. To survive, these workers resorted to small-scale mining. It requires no educational degree, only brawn and boldness since tunnels are generally unsafe, with supports constructed from whatever material can be found. The small-scale miners are also noted to have “nose where to implant themselves and where to dig” (TVI Canatuan, 2005). Small-scale mining, however, offers the possibility of becoming instant millionaires if miners hit the “jackpot” (i.e., mine a hundred grams of gold at one

time). The miners were particularly drawn to Canatuan because of its mat-like formation of gossan ore that makes mining gold relatively easy (R. Furugay, personal communication, 7 May 2006). They chose that area because they could support their families and have them close to where they worked. Their wives, while looking after their children, also ran small businesses in the gold rush area.

To the small-scale miners, Canatuan was a frontier where anyone could reside, establish a business, and live with dignity. In fact, they took pride in being able to pay small taxes to the local government (E. Calida, personal communication, May 3, 2006). To avoid conflict and violence among them, since such behaviour is common in gold rush areas in Mindanao (e.g. Diwalwal mining site) as elsewhere, Canatuan was divided among 14 mine tunnel owners.⁷⁹ Each tunnel was operated by a *korpo*, which consisted of a financier/tunnel owner, diggers, haulers of tailings collected from the tunnels and brought to the surface, and those who crushed and processed the ores (E. Calida, personal communication, 4 May 2006). The *korpo* members usually divided the net earnings according to agreed-upon percentages (R. Furugay, personal communication, 6 May 2006). Seeing the potentials of Mount Canatuan, the miners intended to claim the mountain for themselves by assigning one of the tunnel owners to apply for a prospecting permit in the area. The miners, however, did not anticipate that that assigned tunnel owner would obtain the permit for himself and would sell it to Benguet Mining Corporation, the country's largest mining company. Benguet, in turn, shortly sold it to Canadian-owned TVI Pacific in 1994.

⁷⁹ See also Andrew (2003) for causes of armed conflict in small-scale mining areas; Idrobo, Mejia and Tribin (2014) for their study on the link between illegal gold mining and violence (e.g. massacres and homicide cases) in Columbia.

Classified as a junior resource company, TVI moved its operations in 1993 to the Philippines due its “welcoming business climate” and led the “new wave of gold property acquisition, exploration and development” (TVI Pacific, 1997c, p. 1).

6.3 Exploration

Mining is known to cause conflict over the control of resources or resource area, over participation in decision-making and benefit-sharing, and over social and environmental impacts etc. (Switzer, 2001; Yakovleva, 2005; Hilson, 2006). However, as Switzer (2001) has shown, mining can also finance and benefit from conflict aside from being targeted by conflict or be a supplier to those who profit from conflict. The history of conflict and blood diamonds were intertwined with the DeBeers company and the international mining industry for their alleged complicity in the Sierra Leone Violence (Saunders, 2000; Switzer, 2001; Le Billion, 2008). In the same way, illegal mining was also involved in the Congo genocide, which was strongly condemned by to the United Nations Security Council (Switzer, 2001). Due diligence and the precautionary principle are both incumbent on the government and company to ensure practices of social responsibility. Conflict in Canatuan erupted among communities, the state, and the mining company when in 1996 the Philippine Government’s Bureau of Forestry issued an area clearance permit indicating the absence of any inhabitants in the area and classifying the area as a forest reserve (L. Jasareno, personal communication, 30 March 2006). The clearance permit was crucial since it paved the way for TVI to obtain an exploration permit and a mineral production sharing agreement (MPSA) over Mount Canatuan, and for the state to roll out its mineral liberalization policy. However, by issuing an area clearance, the government treated Canatuan as *terra nullius*. Such a designation means that the territory is considered to be without inhabitants. Such a designation of Canatuan is a deliberate blindness, arising from the state’s

flawed imagination in viewing Mindanao as a frontier without inhabitants. The granting of TVI's MPSA shifted the dynamics of conflict between Subanos and small-scale miners. The two groups decided to join forces, and came up with strategies on how to secure their interests over Canatuan, using alternating protest actions that were mostly confined to Canatuan (E. Calida, personal communication, April 2006). The small-scale miners learned to recognize and respect the Indigenous Subanos *gukom* (justice) system, and their traditional political organization. They also supported the Indigenous Subanos' ancestral domain claim to which TVI perceived as an "illegal royalty" payment (i.e. one peso per sack of tailings extracted from the tunnels paid to the leaders of the Subanon community) (TVI Canatuan, 2005). The two groups together presented a strong and united opposition to the company's mining operations. Such an alliance was unanticipated by both the company and the state.

It is to be noted that "the culture of mineral exploration does not encourage good community relations" (Thomson & Joyce, 2006, p. 158). It is highly competitive, expensive, very risky, ambiguous and uncertain. There is no guarantee that an individual exploration project will become a mine. It does not generate income, and whatever funds the company has for exploration, are intended mainly to discover and evaluate orebodies (Thomson & Joyce, 2006). Budgetary allocations for successive activities such as building community relations, training and other activities whose costs will be incurred outside exploration are considered 'non-essential' until the project is already well advanced into the mining operations. In addition, junior companies are also "fundamentally results driven, strongly oriented to the venture capital markets, and thus focused on the technical aspects of a project" (Thomson & Joyce, 2000, p. 158). Another problem of the exploration culture has to do with the limited skills of exploration personnel to relate cross-culturally and understand the local community, its social and socio-economic

context, and social and cultural codes since they are trained in science and business. The exploration company either avoids or limits its interaction with local communities to an “as-needed” basis (Thomson & Joyce, 2006).

In response to community opposition to its operations, TVI employed tactics that included a food and economic blockade, confiscation of mining materials and equipment, militarization, and human rights abuses (TriPeace, 1997; Mamauag, 2002; Christian Aid & Piplinks, 2004; Apu Manglang Glupa Pusaka et al., 2007). Such tactics were reminiscent of the Philippines’ martial law years, 1972-1986. TVI also bulldozed the small-scale miners’ tunnels without giving prior notice and at times when miners were still working inside (E. Calida, personal communication, 28 April 2006). These company tactics led the miners to seek help from the Roman Catholic Church in a nearby municipality, whose representatives in turn contacted non-government organizations and their networks at the regional, national and international levels. These NGOs provided legal, financial and technical assistance, that included mapping of Indigenous’ ancestral domain area.⁸⁰ Through NGOs, the miners were also introduced to the people’s small-scale mining law, which supports small-scale mineral development. Far from the geo-political center, Canatuan miners were unaware that this law, passed in 1992, could help them obtain mining permits and legalize their operations. This law required that small-scale miners organize themselves into a cooperative in order to apply for a 20-hectare mining area in Canatuan. After they accomplished this requirement, in 2001 the Mines and Geosciences Bureau’s regional office was set to grant the small-scale miners a permit to mine over the 20 hectares area where they were operating. But because of a power struggle

⁸⁰ The Subanos requested the NGOs for a counter-mapping of their indigenous land since the government’s Department of Environment and Natural resources had earlier conducted a survey that excluded TVI’s mineral production sharing agreement (R. Dandana, personal communication, 2006; J. Soriano, personal communication, 2004)

and in-fighting among the small-scale miners, the government withheld the “people’s small-scale mining” permit (E. Calida; G. Canda, personal communication, 28 April 2006).

The small-scale miners’ purposive social action to seek help from outside agencies brought in new social actors, including the Catholic Church and NGOs. Such action helped relieve the pressure that TVI was exerting on them which made it hard for them to earn a living. The church and NGOs with their network of funding agencies drew global attention to the Canatuan case. But the consequence was that the small-scale miners were sidelined due to the NGOs global campaign goals. When I interviewed Geoff, an international NGO worker, he explained that environmental NGOs are opposed to small-scale mining. Such mining is known to use mercury, which destroys the environment. Furthermore such mining is also linked to child labor. In addition to such outside agendas related to opposition to small scale mining, NGOs have also romanticized notions of Indigenous peoples, especially those who are fighting for their sacred mountain. For NGOs it was easier to draw international support for the Subanos and their Indigenous rights than for small-scale miners and their families and livelihoods.

In 2001, an Indigenous Subanon leader spoke to the United Nations Working Group on Indigenous Populations, reporting the abuses committed against them. This intervention prompted the Philippines’ Department of Foreign Affairs immediately to request the Commission on Human Rights (CHR) to investigate the Canatuan case. Briefly, the commission reported that because the presence of Indigenous Subanos and small-scale miners, and the existence of other land delineations (e.g. forest protected area, watershed area, and other claims) has been ignored, conflict between the company and community occurred. It also reported that the company failed to secure free and prior informed consent. In May 2002, the commission made several recommendations to remedy the situation (Sanz, 2007) including one identifying

who the rightful Subanon leader is. Despite these recommendations, no concrete actions were taken by appropriate governmental agencies to remedy the situation.

TVI's "dry run" operations ceased in 1998 despite producing high gold content from its Canatuan plant and generating cash flows from one of its subsidiaries. This was attributed to a downturn in metal prices (Norwest Corporation, 2004) and difficulties in securing loans (TVI Pacific Annual Report, 1998). International NGOs had spoken to lending institutions from which TVI was seeking financing. According to Edgar Calida, TVI was forced back on the ropes because of the actions that the small-scale miners, Subanos, and NGOs had taken. The small-scale miners assessed that "TVI is only a wee bit bigger than us" (personal communication, 4 May 2006).⁸¹ It is a start-up company, with limited technical experience and insufficient financial resources to operate a mine (TVI Pacific Annual Report, 1998).

With the "dialectics of things" that occurred in Canatuan during the exploration stage, a largely unrecognized consequence of mineral liberalization, which privileges foreign investors, and the NGOs' strategy to bring global attention to Canatuan, was recognition of the huge potential of small-scale mining to generate employment and revenues for the country. This is a scale of mining development that was historically demonized for its crude and highly polluting methods. But it has also proven its economic contributions when it helped keep the country's mining industry afloat after huge setbacks due to global economic recession in the 1980s. What the small-scale mining industry needed was government support to upgrade its technical skills, learn environmental-friendly mining methods (E. Calida, personal communication, 4 May 2006), provide smelting centers and trading facilities so that revenues from mining would be kept

⁸¹ Edgar Calida was referring to the size of TVI which was purportedly classified as large-scale mining. In their assessment, the small-scale miners are equally capable of mineral development if the government had granted them a *Minahang Bayan* permit.

locally and regionally instead of repatriated to the home countries of the foreign mining companies operating in the Philippines.

6.4 Development and Construction Stage

With TVI's exploration permit and mineral production sharing agreement (MPSA), the exploration, development, and construction stages were overlapping. While technically in an exploration stage, the company proceeded to set up a mining camp, and construct and develop its pilot mining plant and tailings dam to gain experience in mining between 1994 - 1996. Mining companies usually hire the largest number of people during the development and construction stage. TVI's mining site attracted a diverse group of people coming from Canada, the United States, and Northern and Central Philippines, as well as migrant Indigenous Subanos from other territories and neighboring provinces. It is to be noted that a number of migrant Indigenous Subanos had already moved to Canatuan during the gold rush period of small-scale mining beginning in the mid-1980s. Because this given diversity of the Subanos was ignored in the state's strategic simplification of defining Indigenous peoples as homogenous, the potentially strong opposition by the Subanos of Canatuan to mineral liberalization was weakened.

Subanos from other territories and neighboring provinces also moved to Canatuan hoping to find permanent or contractual work. It should be understood that the Subanos in Zamboanga Peninsula in Southern Philippines are the largest group among the Indigenous peoples of Mindanao.⁸² They are traditionally rice-growing, upland-shifting cultivators (Frake, 1955; Suminguit, 1989). There are five Subanon linguistics groups: 1) *Subanen Central* or the *Sindangan Subanun*; 2) *Subanen Northern* or *Tuboy Subanon*; 3) *Subanon Kolibugan* or

⁸² Antonion Pigafetta, the chronicler of Ferdinand Magellan's expedition from 1519-1522, had referred to them as the Subanon nation (cited in Christie, 1909).

Kolibugan 4) *Subanun Lapuyan*, alternatively referred to as *Lapuyen* and *Margosatubig Subanen*; and 5) *Western Subanon* or *Siocon Subanos* (Summer Institute for Linguistics, 2005).⁸³

The five Subano linguistic groups barely understand each other. Whatever communication they do carry out across the groups is in Bisaya, the dominant language of settlers in Zamboanga.

The Subanos from other territories started to migrate to Canatuan when the gold rush began in the mid-1980s. They found work hauling tailings for small-scale miners and as labourers during planting or harvest season for the original Subanos of Canatuan.⁸⁴ Through the migrant Subanos and in collusion with agents of the State, the company found “tribal dealers” and “invented” traditional leaders (Sanz, 2007) who replaced and unseated the rightful Indigenous leaders of the original Subanon community in Canatuan. They also charged that the traditional chieftain in Canatuan was not of chieftain lineage, an assertion which was also supported by an officer of National Commission on Indigenous Peoples (NCIP), a government agency mandated to advance and protect Indigenous rights (Sanz, 2007). The migrant Subanos also captured the Siocon Subanon Association Inc. (SSAI), an organization which the chieftain of Canatuan and his council of leaders had created in the 1980s to qualify for the government’s land tenure agreement on forestry stewardship and later for their ancestral domain claim. With SSAI’s new leadership, the company was able to execute a memorandum of agreement, which served as community “consent” to its mining operations (Sanz, 2007). In response, the traditional leaders lodged a complaint to NCIP, questioning the legitimacy of the new SSAI and insisting

⁸³ Frake (1955) initially determined that the Subanos can be provisionally divided into at least four groups. His classifications were based on geographical location adding that the Subanons themselves have no terminology that distinguishes cultural or linguistic subdivisions. The Summer Institute of Linguistics (2005) provides a more accurate classification and geographical location of the different Subanon sub-linguistic groups in the peninsula. Based on fieldwork and interviews with several Subanon chieftains, the Subanos identify each other through traditional territories marked by natural boundaries such as mountain ridges. Thus, they refer to one another such as G’taw (People) Sindangan, G’taw Siukun, G’taw Dibaloy, G’taw Tasan, and G’taw Piayao (Fieldnotes, October, 2004).

⁸⁴ The Subanos practice shifting agriculture

that an agreement signed by them with the company had not gone through the free, prior, and informed consent processes as required by the new mining act (1995) and the IPRA. Frustrated with the government's inaction on their complaint, the original Subanos complained to the UN Working Group on Indigenous Populations. On its behest, the Philippine Government, through the NCIP, created a council of elders with the intention of resolving conflict between the two factions sharing leadership and management of Canatuan's ancestral domain and benefits of mineral resources.

Such purposive actions have several unintended consequences. Chief among such actions was the state's action of treating Canatuan as *terra nullius* and designating Mindanao as a "frontier." Instead of recognizing the complexity of diverse cultures and communities in Canatuan, this declaration homogenized the Subanos, eliminating any distinctions and virtually eliminating the existence of local and regional governance. The state could hardly be blamed for such action since the Indigenous Peoples Rights Act itself defined "Indigenous peoples" as a homogenous group. Such an "anthropologically naïve" (Gatmaytan, 2007) definition predisposes Indigenous communities, in this case the original Subanos of Canatuan, to benefit least while bearing most of the costs of mineral liberalization. Thus, in a way the Indigenous Peoples Rights Act, a law intended to protect and advance Indigenous rights in the Philippines, is itself a tool that came to further marginalize Indigenous peoples. This Act allows powerful actors (e.g. state and mining company) to make strategic simplifications, ignore complexities, and reject Indigenous claims, such as the sacred mountain, through self-evident claims of science, like archaeology, that negate what is sacred. In effect, during conversations about risks, costs and benefits of development, if ever there are any such conversations in that part of the world, those

features of the Indigenous peoples' world that communities hold valuable would not have an equivalence of standing or claim (Li, 2015) during the negotiation of agreements.

By creating a “council of elders,” NCIP also sparked outrage among Subanon traditional leaders across Zamboanga Peninsula, drawing even more actors into the Canatuan controversy, making this critical matter of traditional governance even more complex (Sanz, 2007). Its unintended consequence was that the Siocon Subanos' governance and political system known as “The Descendants of the Seven Traditional Leaders of the Seven Rivers”—hereafter referred to as Gukom of the *Seven Rivers*,⁸⁵ which is distinct from other Subanon sublinguistic groups, asserted itself and became known. Previous ethnographic works (Christie, 1909; Frake, 1955; Suminguit, 1989) indicate that large political units or a union of all Subanon peoples has never existed. In my research in the field, I located clear evidence that the case is otherwise. The chieftain of Canatuan is part the Gukom of the *Seven Rivers*. It is a high council of chieftains that settles an issue or conflict that either cannot be handled by the local timuoy (chieftain), or that spans territories (Sanz, 2007). Thus, there are seven traditional leaders in the seven *bonwa* (settlement) in the seven traditional rivers. The genealogy I charted with the Gukom of the Seven Rivers showed that the succession of gukom follows a para-patrilineal pattern from father to son.⁸⁶ The gukom in each traditional river knows his timuoy lineage; he knows how the

⁸⁵ In Subano, it is named *Tupo Nog Pito Kobogolalan Pogokbit Nog Golal Nog Pito Kobogolalan Gonat Sog Pito Kodolongan*.

⁸⁶ A Subano may trace his or her kinship relationship to both sides of the family through bilateral descent (Frake 1957, Suminguit 1989). As learned through fieldwork, the office of gukom is passed down from father-chieftain to son-chieftain. In the case of the Siocon Subanos, the younger sons were usually chosen as gukom over the older ones to avoid a curse. Also, while there were a few exceptions in the history of the Gukom sog Pito Kodolongan when the office was held by a nephew, this was with the understanding that the gukom is only “borrowed” and be returned to the rightful successor when he is of age or under the right circumstance (N. Lambo, personal communication, June 2004). Also, those male leaders whose mothers are daughters of the chieftain will never be a timuoy. But they may be selected as *Soliling*, the timuoy's righthand acting as deputy. The office of the timuoy and soliling require that the men are of timuoy lineage while the rest of the council of leaders are not necessarily members of a chieftain's bloodline.

timuoyos from other bonwa are related to one another, and why a bonwa was established in a specific river in their history of diaspora. Outsiders entering a Subanon bonwa require and seek the consent of the *gukom* and his *bogolal* (council of leaders) who serve as his advisors and council (Frake, 1955; Suminguit, 1989).

The *Gukom* of the Seven Rivers describes itself as a confederation with a *Gulang Gukom* (Elder among the Subanon chieftains); each bonwa has a chief. However, it lacks the centralized and socially complex character of a confederacy that is found in First Nations societies in North America (Miller, 2017). While the Siocon Subanos' *gukom* is hereditary and the members of the Seven Rivers claim descent from a common ancestor named Apo Manglang, their economic stratification, the central feature of chiefdoms (Miller, 2017), is no different from the common Subanon member of the community. Intermarriage between those who belong to the chieftain lineage and those who do not belong is allowed. In any case, community members respect their leadership. The *Gulang Gukom* does not have a monopoly either of power or in the resolution of conflicts, but he may intervene if these conflicts intensify to the extent that the polity is weakened.

Historically, the Seven Rivers would gather when confronted with external threats.⁸⁷ They convened again upon the request of the beleaguered Canatuan chieftain to help settle the conflict in Canatuan. Its main function is to settle disputes among community leaders in a particular river area, especially if parties have failed to reach a resolution using all remedies that were prescribed under the customary law (Sanz, 2007). The *gukom* system aims to restore

⁸⁷ For instance, slave raiding, Spanish colonialization, the Moro National Liberation Front's (MNLF) war against the state in the 1970s, logging concession in the 1980s and recently mineral-development incursions (Sanz, 2007).

harmonious relationships in the community. Reconciliation rather than retribution is far more important to Subanos (N. Lambo, personal communication, February 6, 2004).

When TVI was about to commence mineral extraction in 2004, the Gukom of the Seven Rivers summoned Canatuan's traditional leaders and SSAI's new leaders to resolve identity and leadership legitimacy issues. Using their Indigenous dispute mechanisms, they found that only seven of the 30 Council of Elders (CoE) members were of chieftain lineage (Lambo, 2004). They also affirmed that Canatuan's beleaguered chieftain was a direct descendant of a Siocon chieftain, and hence had the requisite credentials (Sanz, 2007). Their findings were presented to NCIP. However, it was not until 2008, four years later, that the government finally acted on their recommendations when it was pressured by the United Nations Committee on the Elimination of Racial Discrimination (UNCERD)

In 2007, the Gukom of the Seven Rivers summoned TVI to resolve the complaints of Canatuan's chieftain that TVI's security personnel had physically harmed his daughter, and TVI operations had desecrated Mt. Canatuan. TVI ignored the process (N. Lambo, personal communication, 1 August 2007). The company was oblivious to the *gukom*'s traditional purpose of restoring harmonious relationships in a troubled community. According to fieldwork evidence, they have a practice of *palita ang kalinaw* (buy peace) (LRC-KSK, n.d.) or *ukuman* (payment of sin) (Suminguit, 1989)—every crime committed has a corresponding penalty (usually in fines) that can be weighed through *gantangan* (measuring scale).⁸⁸ The IPRA provides for the primacy of customary law. Thus, the customary laws, traditions and practices of the ICCs/IPs of the land where the dispute occurs shall be applied first vis-à-vis property rights, claims and ownerships, hereditary succession, and land conflict settlement (IPRA/Republic Act

⁸⁸ *Gantangan* is usually used to measure volume of rice which is equivalent to three liters.

8371 Sec 63). Prior to the entry of small-scale and large-scale mining into the area, the usual conflicts that arose in a Subanon community were disputes between members within a timuoy's jurisdiction, between members of one or more Subanon villages, and lastly, between members of the Subanon community and non-Subanon communities (Suminguit, 1989).⁸⁹ With the Canatuan case, the primacy of Indigenous justice system in resolving issues beyond the scale of their customary laws, as stipulated in the IPRA, was challenged. When confronted with powerful actors who had competing interests over the Subanos' land and resources, the authority of the Indigenous governance system was undermined, unrecognized and delegitimized.

Closer examination of the interplay between the company and the Subanos reveals that there are three unacknowledged consequences of mineral liberalization.

- 1) The Indigenous justice system is ill-equipped to handle the complexities of the politics and relations with powerful actors, such as a mining company, that operate in a different political and justice system.
- 2) The Indigenous Peoples Rights Act is not capable either of taking a foreign mining company to task for its unlawful activities or of respecting the Subanos' cultural system;
- 3) The diametrical opposition between the worldview of Indigenous Subanos and neoliberal global capitalism means that it is not simply ill-will, lies, money, and power at play, but also involuntary blindness because of different paradigms.

It should also be recognized that the interplay of structure and social actors, and the interdependence of actions taken by different actors have produced consequences that are not necessarily undesirable to the Gukom of the Seven Rivers. Due to mineral liberalization and the conflicts it has produced, the Gukom of the Seven Rivers was convened. With the support of NGOs

⁸⁹ The sources of conflicts are damage to property, breach of contract, murder, rape, abortion, adultery, assault, slander, witchcraft, theft, or forcible entry into another person's property (Suminguit, 2009).

and the company's rejection of Subanos Indigenous governance system, the Siocon Subanos are revitalizing through strengthening their culture, their Indigenous justice system and their governance system, all of which are unique to the Siocon Subanos of Zamboanga Peninsula. Mineral liberalization, a condition of globalization, has brought to light the heterogeneity and complexities in Indigenous societies and the dynamisms of Indigenous culture, despite, or in this case, also because of attempts at homogenization by the state and mining company.

6.5 Extraction

This section is comprised of two parts. The first part shows the unintended consequences that are anticipated in mineral liberalization. It gives focus to the effects of mining on downstream communities and the reactions and counter responses of the various actors as they deal with the unintended consequences of their respective actions. The second part presents the intended outcome of a junior resource company, which successfully transitioned from exploration to a full-fledged mining company. It presents the anticipated consequences during the extraction stage when the mining company had commenced commercial extraction and operation under a bullish global market with a strong demand for gold.

6.5.1 Unintended but Anticipated Consequences: The Downstream Communities

TVI's extraction stage had two phases: gold and silver deposits from 2004-2008 and copper and zine deposits from 2009-2013 (TVI Pacific, 2014). The company used open pit mining, which has lower development and maintenance costs, generating high productivity and greater flexibility in extraction (Warhurst, 2000). Open pit mining, however, has serious and long-term impacts that are likely to result in considerable damage to the natural environment. Open pit mining is known to produce a large volume of waste such as overburden, waste rock, tailings, and heap leach spent ore, and to generate contaminated water. It also produces acid rock

drainage, which contributes to a high rate of acid generation over time due to runoff from open pit workings, waste rock dumps from mining activities, and mill tailings.

According to TVI's feasibility study, the "planned disturbance involves less than 1% of the Siocon River Watershed; the impact will not be noticeable within the downstream reaches of the river system" (Norwest, 2004, p. ES-17). However, it was anticipated that watershed response and flood conditions would be "difficult to mitigate since the project is located near the head waters of Canatuan Creek and Lumot Creek" (Norwest, 2004, ES-17). These two creeks are major tributaries of the Lituban River and run into the Siocon River. These creeks represent a section of the Siocon River Watershed and serve as an active deposition site for any disturbances that come from TVI's mining operations (Fabila, 2006). By 2006, 95 hectares of the Canatuan Creek Watershed and three hectares of Lumot Creek were directly affected by TVI's mining operations due to TVI's third tailings dam construction, and other mining related activities (TVIRDPI, 2005).

TVI's expectation that the "impact will not be noticeable within the downstream reaches of the river system" (Norwest, 2004, ES-17) proved to be naïve. Over the years, the peasant communities downstream have observed that their irrigation system was constantly clogging up because of increased siltation. The fish pond operators noticed that their fingerlings were not growing as they should and that their ponds were heavily silted. The fishing community, located just where the Siocon and Lituban Rivers drain toward the ocean, has also been reporting skin diseases and decreasing amounts of fish caught beginning in the mid-1990s. This impact could be attributed to both the small-scale mining operations and TVI's pilot plant that began operating in November 1996 as a "dry run" for the company's full-scale plant.⁹⁰

⁹⁰ Within this period, TVI has also been pouring bullion weekly at this 50 tonnes per day plant for several months. The pilot plant was intended to act as a small-scale "dry run" for the company's full-scale plant, while at the same

The downstream communities have taken their observations to the government. They suspect that mining in Canatuan is likely affecting the water quality in Litoban River and creating increased amounts of silt in their farm lots and fish ponds. The Philippines' Mines and Geosciences Bureau easily dismissed such complaints, saying that "they always blame the mining company for everything" (J. Soriano, personal communication, December 3, 2004). "Science," as advanced modern society understands the term and practices it, is both inaccessible and unaffordable to communities in that part of the world. Furthermore, demonstrating ground water contamination without baseline data is difficult (Warhurst, 2000). Thus, the mining company and its engineers were the main source of acceptable information and expertise regarding mining, the environment and any measurements made, while the communities' observations and narratives were treated as hearsay and rumor, hence unreliable.

So, the downstream communities did not take action beyond reporting their growing concerns until TVI's "march of the equipment" (G. Galos, personal communication, March 21, 2004) rolled into Siocon municipality in 2004. Driven by their unaddressed complaints to the government, their fears, and their perception of adverse risks to their livelihood and environment because of large-scale mining, they barricaded the foothills of Canatuan to prevent TVI's mining equipment from going up to TVI's mining camp. The company, they said, never consulted or informed them about how mining was going to affect them and the environment. TVI only sought them out after the protest actions (R. Canlas, personal communication, April 2006; G. Galos, personal communication, 21 March 2004).

time testing the metallurgical parameters of the gold (TVI Pacific, 1997c). Based on TVI's (1997c) annual report, the Canatuan plant had also generated some early cash flow from bullion sales.

Not having anticipated opposition, TVI's security force opened fired at unarmed and inexperienced protesters. Instead of defusing the situation, the incident mobilized other sectoral groups in Siocon Poblacion. At the barricades, the protesters decided to form the Save Siocon Watershed Paradise Movement (SSWPM), a multi-sectoral alliance composed of the Siocon Farmers Association, Siocon Fish-Farming Association, Siocon Fishermen, and the Siocon Subanon Federation (Fieldnotes, 21 March 2004). The local government of Siocon, which had maintained a hands-off policy regarding the mining controversy in Canatuan, was now galvanized to take a stand against TVI's mining operations. The strong criticism of the people in Siocon Poblacion mobilized other NGO supporters and funding agencies at the national and international level. A group called Task Force Canatuan was created shortly after TVI commenced its commercial extraction. Its objectives were to come up with "a unified strategy to resist TVI mining and to advance a development framework that supports the needs and aspirations of the local community" (Fieldnotes, 18 August 2004).⁹¹

The Task Force whose NGO members were engaged in oppositional politics helped the Subanos and downstream communities elevate their complaints into international venues, specifically the Canadian Parliament in 2005, and the United Nations Committee on the Elimination of Racial Discrimination (UNCERD) in 2007. At the Canadian Parliament, the Subanos and downstream communities met with quasi-NGOs like Rights and Democracy, which were lobbying for the creation and funding of a community-based human rights impact assessment instrument. Their complaints, while not directly addressed by the Canadian Parliament, paved the way for the filing of Bill C-300 four years later, an act regarding corporate accountability for the activities of

⁹¹ It was comprised of Subanos in Canatuan, the Gukom of the Seven Rivers, SSPM, the local government of Siocon, non-government organizations with different expertise but functioning mostly in oppositional politics, and funding agencies.

mining, oil or gas corporations in developing countries, which was filed Liberal MP John McKay introduced the Bill C-300 a private members bill on February 9, 2009 (McKay, 2009).

6.5.2 Intended and Anticipated Outcomes: TVI a Runaway Train

TVI commenced its commercial extraction in 2004 at a time when global demand for gold and silver was increasing and commanding high prices.⁹² For the Task Force Canatuan, the company was a “runaway train” that was already difficult to slow down, stop or derail (Fieldnotes, August 2004). The bullish market for gold, arising from China’s economic expansion, made a TVI turn around possible, enabling it to invest in “forward-looking activities.” Shortly after the Canadian Parliament’s hearing on TVI’s human rights abuses in 2005 the company hired personnel with human rights background for its community relations and social responsibility department. TVI also produced its social responsibility principles that made the company the best model in Philippines’ mining industry. The company became a “surrogate government” (F. Yeban, personal communication, October 2008), building schools, providing education through offering scholarships and paying for teachers’ salaries, and putting up a medical clinic with 24/7 physicians who also served those from the neighboring towns. Such a surrogacy role is a consequence of the Philippines’ structural adjustment program (SAP) with the International Monetary Fund/World Bank, which began in 1981 (Landell-Mills, 1981). One of the conditions for SAP is that the state relinquishes its role in providing basic services, such as health and education, to the private sector. It is to be noted that mineral liberalization is the third phase of the Philippines’ structural adjustment program.⁹³ Yet, has there been real development seen in the country (Lim & Montes, 2002)?

⁹² See TVI Pacific’s audited financial statements from 1998 to 2009 available at www.sedar.com

⁹³ The structural adjustment program in the Philippines has three phases: 1) first phase was from 1980 to 1983, which gave emphasis on trade liberalization; 2) second phase was from 1983 to 1992 gave focus on stabilization and

Two years into the commercial extraction stage, the governments of the Philippines and of Canada hailed TVI Pacific as a responsible miner and good example of Canadian mining in the Philippines. It had met three government criteria for responsible mining: contribution to economic growth, social equity, and participation in the protection and sustainable development of the country and its resources (TVI Resource Development Philippines 2006). From the state's standpoint, TVI's mining project met its intended goals of providing jobs and alleviating poverty in the Zamboanga del Norte, one of the poorest provinces in the country.

At this point, SSAI and the invented traditional leaders (the Council of Elders) were reaping the benefits of TVI's mineral development in their ancestral domain. On the other hand, the beleaguered Subanon chieftain and his council of leaders were increasingly alienated and marginalized, even more so when a number of the original Subanos of Canatuan shifted loyalties to the other faction. To distinguish their group from SSAI and migrant Subanos, the anti-TV I Subanos identified themselves as Apu Manglang Glupa Pusaka (AMGP). Despite being confronted with the reality of enjoying economic benefits of mining, the AMGP proceeded with the plans they made with Task Force Canatuan (Fieldnotes, April 2006). In 2006, they filed a case in the local courts against TVI regarding the failure to acquire free, prior, informed consent. The following year, after participating in a community-based human rights impact assessment, the Gukom of the Seven Rivers and the beleaguered Subanon chieftain, filed a complaint with the United Nations Committee on Racial Discrimination (UNCERD). The main contention of their complaint was that TVI had destroyed a Subanon sacred mountain and that the chieftain was delegitimized as a non-traditional leader.

debt repayment; 3) phase three, from 1992 until the present, which promotes free market through rapid deregulation, privatization and trade and investment liberalization (Bello, 2009, 1999, 1998).

Shortly afterwards in 2008, UNCERD requested clarification and further information from the Philippine State and the company regarding the Subanos' complaints.⁹⁴ In its letter to UNCERD, TVI argued that the Subanos' claim that Canatuan is a sacred mountain is "an *ex post facto* political construct," and "devoid of any Subanon archaeological or cultural materials; there was no evidence found of any historic or prehistoric religious practice, at any time..." (Mateo, 2008).⁹⁵ TVI also viewed the beleaguered chieftain as "a leader repudiated by the majority in the Subanon community," who was "used repeatedly as a figurehead for a campaign being waged for some time by external, non-Subanon political groups both national and international, opposed to mining in general, to stop mining operations in the Philippines and in Canatuan" (Mateo, 2008).

This external pressure from UNCERD was an intended and anticipated consequence of the AMGP, the Gukom of the Seven Rivers, and Task Force Canatuan. What was unintended and unanticipated by Task Force Canatuan NGO members was that it paved the way for the Subanos and TVI to negotiate and come up with an agreement that would terminate the long-term relationship of the original Subanos of Canatuan and NGOs.

6.6 Closure

Towards the end of full extraction of TVI's gold and silver mines when the Subanos and TVI came to an agreement, the members of Task Force Canatuan were surprised. They had not anticipated that the original Subanos of Canatuan would recognize TVI's memorandum of

⁹⁴ See letter of Eugene T. Mateo, TVIRDP President, addressed to Erlinda M. Basilio, Ambassador and Permanent Resident Representative, Permanent Mission of the Philippines to the United Nations at Geneva dated June 24, 2008.

⁹⁵ The company has not indicated that it has conducted cultural or anthropological assessments of what sacred space means to the Subanos. This lacuna, likely pointing to the company not having done an assessment, also makes an argument for due diligence on the part of the mining company during the exploration stage.

agreement and MPSA, or that TVI, on the other hand, would recognize and respect the leadership of the chieftain whom it had delegitimated

According to Portes (2000), at least five unintended consequences will arise from purposive action: 1) the real goal is not made transparent; 2) the real goal is not what the actors achieve in reality; 3) the real goal comes from the situation itself; 4) the original goal is real, but the effect is contrary to its intent; and, 5) the original goal is real, but it is achieved by unexpected cumulative events. To the AMGP and the Gukom of Seven Rivers, the goal was that the rightful Subanon traditional leadership in Canatuan would be recognized and reinstated so that they could regain control over their land and resources in Canatuan. This was in consideration of the losses, especially the desecration of the sacred mountain, and the perceived threats they could have in the future, such as TVI's adjacent mining claims that encompass their ancestral domain.⁹⁶ They believed that in future agreements the original Subanos would be able to negotiate terms that would include environmental, social and cultural considerations (N. Lambo, personal communication, 2009). It was important then to re-establish and institute their traditional governance structure and restore harmony and peaceful relationship among all the Subanos in Canatuan

Such an unanticipated move, however, has political consequences for the country's anti-mining movement. Over the years, the beleaguered chieftain and the Gukom of the Seven Rivers have become the face of Philippines' Indigenous struggle against the government's mineral liberalization policy. The Subanos' purposive move to make a deal with Canatuan will have an adverse impact, undercutting other "sites of struggles" that strongly criticize the State's mineral

⁹⁶ The Subanos also perceive the ongoing negotiations between the government and the Moro Islamic Liberation Front, a Muslim secessionist group, to have some impact on their ancestral domain.

liberalization policy. The Task Force Canatuan’s collective objective to hold the Philippine State and TVI accountable through the United Nations would also be compromised.

In 2011, TVI submitted itself to a “spiritual cleansing ritual and act of offering reconciliation to the people of Canatuan and their ancestors” (Gulang Gukom, 2011). It also admitted its misconduct in violating Subanon customs and traditions that “resulted to destructions [*sic*] in the ancestral domain and chaos of the community in Canatuan” (Gulang Gukom, 2011). In 2014, the company announced the closure of its Canatuan mines. From 2008 to 2013, the company’s economic contribution to the country amounted to CA\$20,830,400.

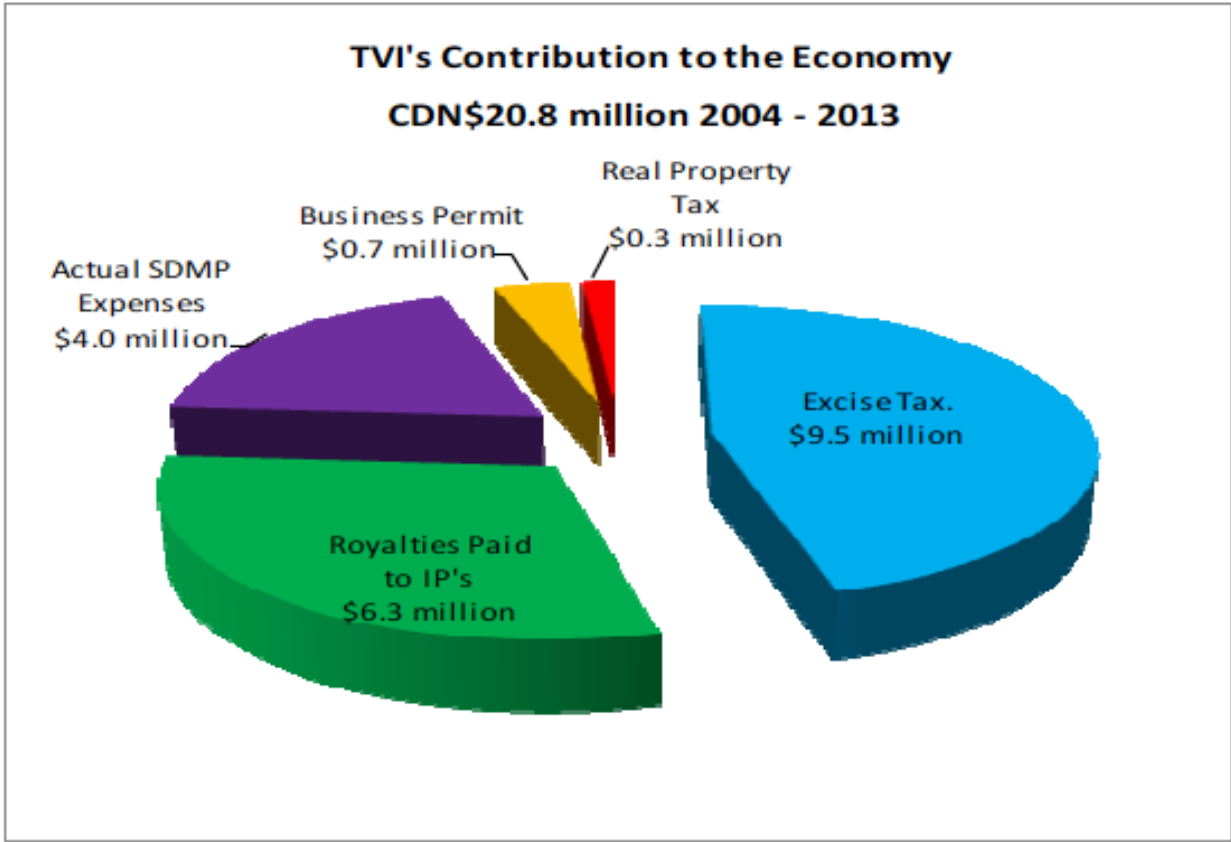


Figure 6-2. TVI's Contribution to the Philippine Economy from 2004-2013

Source: TVI Pacific Annual Information Form, March 19, 2014.

This is broken down as follows: CA\$ 6.3M to Indigenous peoples, CA\$ 9.5M to excise tax, CA\$ 0.3M real property tax, CA\$ 0.7M business permit, and CA\$ 4.0M to social development and management programs (See Figure 6-2). To understand the relative size of this contribution, a comparison to what TVI has earned needs to be made. It should be noted first that TVI purchased its Canatuan property at only US\$ 1.4 million in 1994 and it was able to begin commercial extraction in 2004. From 2004 to 2014, TVI generated from its gold and silver mines project in Canatuan a total gross of US \$ 86 million and a net cash flow of US \$ 29 million. When the company began extracting from its copper and zinc mines, TVI generated a total gross of US \$ 393 million with a net cash flow of US \$ 151 million (See Figure 6-3). With its earnings from Canatuan, the mining company was able to purchase and develop other mining assets in the Philippines and China.

**TVI's Total Minerals Extracted and Revenues
Generated from its Canatuan Mine Project from 2004 - 2014**

	Total Minerals Extracted	Gross Revenues	Net Cash Flow
Gold-Silver Mine (2004 – 2008)	Gold - 105,200 oz Silver - 1.8 M oz.	US\$ 86.0 million	US\$ 29.0 million
Copper-Zinc Mine (2009 – 2014)	Copper 199,77- 8 dry metric tonnes Zinc 30,548 dry metric tonnes	US\$ 393.0 million	US\$ 151.0 million

Figure 6-3. TVI Canatuan Mine Project's Total Revenues and Minerals Extracted from 2004-2014
Source: TVI Pacific Inc. (2017)

6.7 Conclusion

To examine if mineral liberalization brings sustainable development to communities in Mindanao and if they benefit from it, I conducted an ethnography over the life cycle of TVI's Canatuan mines. From the beginning of its project, TVI has created jobs, generated mineral revenues, and provided social services to communities, which are the intended outcomes of the Philippines State's mineral liberalization policy. It should be noted that this policy is an intended consequence of the government's structural adjustment program (SAP) which subscribes to the International Monetary Fund/World Bank's neoliberal development framework. But in following the life cycle of the mine, my study revealed a complex scenario in which the original Indigenous Subanon inhabitants of Canatuan, the migrant Subanos, the small-scale miners, and downstream communities were differentially affected. My examining the unintended consequences of mineral liberalization opened a wider perspective for grasping the various impacts of mining beyond the government's economic intentions.

Using Giddens' (1984) structuration theory and other theorists' understanding of unintentionality (Beck 1996, 1999, 2009; Portes, 2000; Mica et al., 2015; Campbell, 2015; Merton, 1936), I was able to nuance the relationship of mineral liberalization and unintended consequences, which is both highly interdependent and ambiguous, though never dull. This interconnected relationship is dynamic and ever-changing in each of the mining stages because of the different motives, intentions and exercise of will-power of subordinated actors, who were counteracting the purposive action of the State and mining company. In privileging foreign large-scale mining, the Philippine State produced unintended consequences through its strategic oversimplifications, neglect, and ignorance of Mindanao's social and cultural contexts. Such consequences were also

due to power relations among social actors whose value system were very different and antagonistic and whose worldviews were diametrically opposed (e.g. Indigenous Subanos with traditional way of life and neoliberal global development based on capitalism).

However, when situated in Mindanao's long history of development and armed conflict, and the experience of other Indigenous communities in the Global South, the unintended consequences of mineral development such as human rights abuses, social conflict, and environmental degradation are not only anticipated, but easily routinized and normalized. It is nearly impossible to exact political accountability from and apportion justice claims against powerful organizations. In a sense, these unintended consequences are built into the circular logic of a large-scale foreign owned extractive development project. On the other hand, as the mining operation moves through its life-cycle, actors improvise on their strategies, recruit other actors (e.g. Gukom of the Seven Rivers, NGOs), open new avenues such as human rights impact assessment, hearings in Canadian Parliament and UNCERD, to further their cause or withdraw from long-term partnerships and alliances. They may also become desensitize to the unintended consequences of their respective purposive actions. In the end, mineral liberalization is pursued in order to produce the desired effect of jobs, poverty alleviation, mineral revenue generation, while at the same time is blind to other detrimental, adverse effects on subordinated actors of economic dislocation of downstream communities, regulatory failures, undermining of Indigenous governance, delegitimization of Indigenous political structure, routinized alienation of small-scale mining's potential to contribute to the economy. Thus, it is important that the consequences of mineral liberalization must be paid attention to and classified as intended, unintended or unrelated, recognized, unrecognized, acknowledged, or unacknowledged and as desirable, undesirable or

neutral (see **Table 6-1**). This is because unintended consequences in mineral liberalization may systematically feedback to the unacknowledged conditions of further acts (Giddens, 1984, p. 8).

Table 6-1. Unintended Consequences of Mineral Liberalization

Intention	Recognition	Acknowledgment	Desirability
Intended	Recognized	Acknowledged	Desirable
Unintended	Unrecognized	Unacknowledged	Undesirable
Unrelated			Neutral

CHAPTER 7

THE POLITICAL LIFE OF A HUMAN RIGHTS IMPACT ASSESSMENT: CANADIAN MINING IN THE PHILIPPINES

Penelope Sanz & Robin Hansen,[†] The Political Life of a Human Rights Impact Assessment: Canadian Mining in the Philippines (2018) 7:1 Can J Hum Rts 97.

7.1. Introduction

An impact assessment is an evaluation tool and a methodology that offers opportunities for public participation and consultation.⁹⁷ As Matthias Sant’Ana notes, “[a]ccording to the International Association for Impact Assessment (IAIA), impact assessment is defined as ‘the process of identifying the future consequences of a current or proposed action.’”⁹⁸ One key dimension of an impact assessment, more generally, is its political nature.⁹⁹ Impact assessments often happen in a

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⁹⁷ See e.g. Paul Hunt & Gillian MacNaughton, “Impact Assessments, Poverty and Human Rights: A Case Study Using the Right to the Highest Attainable Standard of Health” (2006) WHO & UNESCO Health and Human Rights Working Paper No 6 at 33, online: www.who.int/hhr/Series_6_Impact%20Assessments_Hunt_MacNaughton1.pdf; Gauthier de Beco, “Human Rights Impact Assessments” (2009) 27:2 *Nethl QHR* 139 at 148. This article specifically talks about right-based assessments.

⁹⁸ Matthias Sant’Ana, “Foreign Direct Investment and Human Development: Two Approaches to Assessing Impacts on Human Rights” (2009) 3:2 *Human Rights & Intl Leg Discourse* 229 at 249.

⁹⁹ See e.g. Ciaran O’Faircheallaigh, “Effectiveness in Social Impact Assessment: Aboriginal Peoples and Resource Development in Australia” (2009) 27:2 *Impact Assessment & Project Appraisal* 95 at 96: “[t]here is little consensus in the literature about how ‘effectiveness’ in [Social Impact Assessment] might be defined, or about how best to pursue it. This reflects the essentially contested and political character of SIA and of impact assessment (IA) generally.” See also Bo Elling, “Rationality and Effectiveness: Do EIA/SEA Treat Them as Synonyms?” (2009) 27:2 *Impact Assessment & Project Appraisal* 121.

context where parties are seeking to exert their power to influence policy.¹⁰⁰ Cashmore et al indicate that:

[A]ctivities concerned with *the acquisition or exercise of power* can be considered political, including the processes through which collective societal decisions ... are taken and implemented. ... [P]olitics is not limited to the acts of sovereign governments and their administrations, but is also conducted in a multiplicity of arenas and international and local levels.¹⁰¹

Cashmore et al identify three ways in which an impact assessment is political.¹⁰² First, an impact assessment instrument is a political statement, drawing attention to the importance of policy issues.¹⁰³ Second, impact assessment instruments solidify particular governance norms by setting parameters regarding “how knowledge is generated, codified and interpreted”.¹⁰⁴ In other words, impact assessments define criteria to determine what comprises knowledge *vis-à-vis* policy.¹⁰⁵ Third, impact assessments focus on issues related to distributional justice and freedom.¹⁰⁶

This article examines the political dimensions of a Human Rights Impact Assessment (HRIA) completed for a Canadian mining investment in the Philippines. It is foreseeable that all three political characteristics identified by Cashmore et al will be evident in the development of the HRIA for this mining investment.¹⁰⁷ Speaking to the first and third political characteristics for

¹⁰⁰ Matthew Cashmore, Tim Richardson Tuija Hilding-Ryedvik & Lars Emmelin “Evaluating the Effectiveness of Impact Assessment Instruments: Theorising the Nature and Implications of Their Political Constitution” (2010) 30:6 Environmental Impact Assessment Rev 371 at 373.

¹⁰¹ *Ibid* [emphasis added]. This definition builds on Howard Lasswell’s work. See *Politics: Who Gets What, When, How* (New York: McGraw-Hill, 1936).

¹⁰² Cashmore et al, *supra* note 100 at 373.

¹⁰³ *Ibid*.

¹⁰⁴ *Ibid*.

¹⁰⁵ *Ibid*.

¹⁰⁶ *Ibid*.

¹⁰⁷ *Ibid*.

ease of explanation, an HRIA sends a message that human rights are worthy policy considerations, and it is concerned with the allocation of wealth and resources. HRIAs are perhaps even more concerned with distributional justice than other types of impact assessments, because they draw attention to the importance of human rights in policy-making.¹⁰⁸ Human rights are often used as political instruments to protect human agency.¹⁰⁹ An HRIA becomes increasingly political when it is conducted in a highly charged context.¹¹⁰ This increase stems from general disparity within a specific context, and a combination of various factors, including the nature of the industry (e.g. mining, oil), the type of foreign investment and investor, location and timing (e.g. conflict area during armed confrontations) and the host country's characteristics (e.g. weak state).¹¹¹

Cashmore et al.'s second political characteristic relates to how an HRIA sets boundaries around what constitutes knowledge *vis-à-vis* policy.¹¹² This might be evident in how the power exerted by involved parties affects why and how the impact assessment is conducted.¹¹³ Empirical research methodologies, like ethnography, can help researchers consider how parties' agendas and positionality influence not solely the broad logistical realization of the impact assessment, but the

¹⁰⁸ de Beco, *supra* note 97 at 146: "HRIAs can facilitate the mainstreaming of human rights".

¹⁰⁹ Michael Ignatieff, "Human Rights as Politics and Idolatry" in Michael Ignatieff & Amy Gutmann, eds, *Human Rights as Politics and Idolatry* (Princeton, NJ: Princeton University Press, 2003) 1 at 4.

¹¹⁰ There is now a vast amount of literature on the politics of foreign investment and the extractive sector in militarized and/or weak governance zones. See e.g. Ugo Mattei & Laura Nader, *Plunder: When the Rule of Law is Illegal* (Malden, Mass: Blackwell Publishing, 2008); Penelope Simons & Audrey Machlin, *The Governance Gap: Extractive Industries, Human Rights, and the Home State Advantage* (New York: Routledge, 2014); Alain Deneault & William Sacher, *Imperial Canada Inc.: Legal Haven of Choice for the World's Mining Industries* (Vancouver: Talonbooks, 2012); Patricia I Vasquez, *Oil Sparks in the Amazon: Local Conflicts, Indigenous Populations, and Natural Resources* (Athens, Ga: University of Georgia Press, 2014); Evaristus Oshionebo, *Regulating Transnational Corporations in Domestic and International Regimes: An African Case Study* (Toronto: University of Toronto Press, 2009).

¹¹¹ Sant'Ana, *supra* note 98 at 231, 248. See also *ibid.*

¹¹² Cashmore, *supra* note 100 at 373.

¹¹³ See e.g. Claire A Dunlop et al, "The Many Uses of Regulatory Impact Assessment: A Meta-Analysis of EU and UK Cases" (2012) 6:1 Regulation & Governance 23 at 24: "[e]xisting empirical research demonstrates the malleability of [Regulatory Impact Assessments]: the appraisal process is molded and shaped by policy actors to serve a variety of different purposes."

actual methodological choices made by the assessor and other parties.¹¹⁴ Power and positionality likely also shape parties' responses to the HRIA and the framing of its content.

Examination of an HRIA's political facets is both useful and timely. In the wake of the United Nations Human Rights Council's 2011 adoption of the United Nations Guiding Principles on Business and Human Rights (UNGPs)¹¹⁵, HRIAs are increasingly identified as a means by which businesses may meet their social obligation to perform their human rights due diligence.¹¹⁶ Some note the risk, however, that not all of the HRIAs completed in this context will be necessarily "meaningful" in enhancing human rights performance.¹¹⁷ Scholars note that for HRIAs to be meaningful in addressing human rights impacts, the qualitative nature of a given HRIA must meet key requirements.¹¹⁸ For example, Harrison identifies "transparency; external participation and verification; and independent monitoring and review" as important requirements,¹¹⁹ while Götzmann underscores several criteria including adherence to a human rights-based process that emphasizes participation and inclusion.¹²⁰ These authors explore how, if an HRIA does not meet certain requirements, it may be a meaningless exercise.¹²¹ As a result, key stakeholders may be

¹¹⁴ *Ibid.*

¹¹⁵ *Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, John Ruggie: Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework*, Human Rights Council, 17th Sess, UN Doc A/HRC/17/31 (2011) at 15-16. Principle 15(b) states that business enterprises' (social) responsibility to respect human rights requires that enterprises put in place "[a] human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights"; Principle 17 also sets out that, "business enterprises should carry out human rights due diligence. The process should include assessing actual and potential human rights impacts, integration and acting upon the findings, tracking responses, and communicating how impacts are addressed."

¹¹⁶ James Harrison, "Establishing a Meaningful Human Rights Due Diligence Process for Corporations: Learning From Experience of Human Rights Impact Assessment" (2013) 31:2 *Impact Assessment & Project Appraisal* 107 at 111.

¹¹⁷ *Ibid.* at 111. Nora Götzmann, "Human Rights Impact Assessment of Business Activities: Key Criteria for Establishing a Meaningful Practice" (2017) 2:1 *Business & Human Rights J* 87 at 107 [Götzmann, "HRIA"].

¹¹⁸ See e.g. Harrison, *supra* note 116; Götzmann, "HRIA", *supra* note 117.

¹¹⁹ Harrison, *supra* note 116 at 108.

¹²⁰ Götzmann, "HRIA", *supra* note 117 at 99.

¹²¹ *Ibid.*; Harrison, *supra* note 116 at 108.

disillusioned with the process and the outcome of the assessment, and the HRIA may not actually enhance corporate human rights performance.¹²²

The political side of an HRIA is thus highly relevant to its potential contribution to human rights promotion and protection. This article builds on Harrison's observation that, "far more important than the formalities of the adoption of the procedural elements prescribed is the manner in which each element of the process is actually conducted in each individual HRIA."¹²³ The authors seeks to address a gap in HRIA scholarship, noted by Götzmann, concerning "the careful consideration of the power-dynamics at play within communities, between rights-holders, companies and state actors, as well as with regard to the people who comprise the assessment team."¹²⁴ This article aims to present a detailed qualitative analysis of the HRIA of a mining project, to expressly identify how power and party positionality shapes HRIAs in their processes, findings and outcomes. To do so, the analysis is framed within literature on power and positionality, particularly in the context of inter-organizational collaboration.

Collaboration is broadly defined by Phillips, Lawrence & Hardy as "a co-operative relationship among organizations that relies on neither market nor hierarchical mechanisms of control."¹²⁵ Organizations including governments, corporations and non-governmental organizations (NGOs) collaborate "as a means of reducing uncertainty, acquiring resources, and

¹²² Harrison, *supra* note 116 at 111. See also Peter Muchlinksi, "Implementing the New UN Corporate Human Rights Framework: Implications for Corporate Law, Governance, and Regulation" (2012) 22 Business Ethics 145 at 156: "unless a corporate culture of concern for human rights is instilled into the officers, agents and employees of the company, due diligence could end up missing the very issues it is set up to discover. At worst it could degenerate into a 'tick-box' exercise designed for public relations purposes rather than a serious integral part of corporate decision-making."

¹²³ Harrison, *supra* note 116 at 109.

¹²⁴ Götzmann "HRIA", *supra* note 117 at 99.

¹²⁵ Nelson Phillips, Thomas B Lawrence & Cynthia Hardy, "Inter-Organizational Collaboration and the Dynamics of Institutional Fields" (2000) 37:1 J Management Studies 23 at 24.

solving problems”.¹²⁶ As Hardy and Phillips note, “it is often assumed that stakeholders collaborate voluntarily, sharing common goals and equal power.”¹²⁷ In inter-organizational relationships, organizations perceive themselves to be connected to common issues.¹²⁸ These relationships are not, however, set by objective, predetermined structures; but “by processes of negotiations, social construction and meaning creation”.¹²⁹ It is expected that those participants with more power and ability will be able to shape relationships to their advantage.¹³⁰ If they share a common goal, they may share power; but when goals are in conflict, power sharing is unlikely.¹³¹

Power is conceptualized in various frameworks.¹³² In the context of inter-organizational collaboration and conflict, this article uses Hardy and Phillips’ simplified framework on power.¹³³ This framework has three aspects namely, “formal authority, the control of critical resources, and discursive legitimacy”.¹³⁴ Formal authority in inter-organizational collaboration manifests into one particular organization that has a “recognized, legitimate right to make a decision” (e.g. a government or donor agency).¹³⁵ Scarce or critical resources like “expertise, money, equipment, information, etc.” tilts power relations in favor of participants who are able to provide or

¹²⁶ Cynthia Hardy & Nelson Phillips, “Strategies of Engagement: Lessons From the Critical Examination of Collaboration and Conflict in an Interorganizational Domain” (1998) 9:2 *Organization Science* 217 at 217.

¹²⁷ *Ibid* at 217.

¹²⁸ *Ibid* at 218.

¹²⁹ *Ibid*. See Maria L Nathan & Ian A Mitroff, “The Use of Negotiated Order Theory as a Tool for the Analysis and Development of an Interorganizational Field” (1991) 27:2 *J Applied Behavioral Science* 163 at 165 (discusses the process of negotiation). See Jean B McGuire, “A Dialectical Analysis of Interorganizational Networks” (1988) 14:1 *J Management* 113 at 122 (discusses the process of social construction). See David L Altheide, “Mediating Cutbacks in Human Services: A Case Study in the Negotiated Order” (1988) 29 *Sociological Q* 339 at 340-41 (discusses the process of meaning creation).

¹³⁰ Hardy & Phillips, *supra* note 126 at 219.

¹³¹ *Ibid*.

¹³² See e.g. Michel Foucault, *Power/Knowledge: Selected Interviews and Other Writings, 1972-1977* (New York: Pantheon Books, 1980) at 109-45; Pierre Bourdieu, *Sociology in Question* (London: Sage Publication, 1993); Stewart R Clegg, *Frameworks of power* (London: Sage Publications, 1989) at 189-239.

¹³³ Hardy & Phillips, *supra* note 126.

¹³⁴ *Ibid* at 219.

¹³⁵ *Ibid*.

supplement such resources.¹³⁶ Lastly, some organizations obtain influential power through discursive legitimacy.¹³⁷ Discursive legitimacy refers to when participants appear to speak legitimately and genuinely for issues and organizations, rather than for their own underlying self-interests.¹³⁸ As argued by Hardy and Phillips, those actors who have better access to authority, resources and discursive legitimacy will likely exert greater influence in inter-organizational relationships.¹³⁹ Thus, positionality is an important aspect of collaboration as it adds a particular complexity to the power relations among actors.

Positionality is both social and organizational.¹⁴⁰ Social positionality is defined as “the different levels of social standing afforded [to] individuals by broader societal inequities and asymmetrical relations of power”¹⁴¹, and is associated with a reflective ethnographic approach.¹⁴² Organizational positionality, however, is the “differing relations of authority embedded in organizational structures.”¹⁴³ This article focuses on organizational positionality, in the context of inter-organizational collaboration and conflict. In sum, we understand organizational positionality as an organization’s unique position, which reflects its institutional resources (e.g. expertise, money and equipment), political and ideological views, history and previous experiences in collaborative relationships, addressing issues that shape power dynamics and relationships. The social and organizational positionality of individuals who interact with other organizations due to

¹³⁶ *Ibid.*

¹³⁷ *Ibid.*

¹³⁸ *Ibid.*

¹³⁹ *Ibid.*

¹⁴⁰ Nathan D Brubaker, “Negotiating Authority Through Cultivating a Classroom Community of Inquiry” (2012) 28:2 Teaching & Teacher Education 240 at 242. See also Joan Acker, “Hierarchies, Jobs, Bodies: A Theory of Gendered Organizations” (1990) 4:2 Gender & Society 139 at 146-47 (examines gender as a form of positionality in organizations).

¹⁴¹ Brubaker, *supra* note 140 at 242.

¹⁴² See e.g. Elizabeth Chiseri-Strater, “Turning in Upon Ourselves: Positionality, Subjectivity and Reflexivity in Case Study and Ethnographic Research” in Peter Mortensen & Gesa Kirsch, eds, *Ethics and Representation in Qualitative Studies of Literacy* (Urbana: National Council of Teachers of English, 1996) 115 at 115.

¹⁴³ *Ibid.*

vested authority is also at work during collaboration.¹⁴⁴ This adds to the power imbalance and complexity present within inter-organizational collaboration.¹⁴⁵

Building on previous understandings of collaboration, power and positionality, this article reviews the HRIA of a mining investment to identify how the involved parties shaped that particular HRIA and its outcomes. This article relates to literature that argues impact assessments have a political dimension, including their relationships to involved parties and their exercise of power.¹⁴⁶ It also relates to emerging literature on HRIAs, which notes that an HRIA will not necessarily be “meaningful” in enhancing human rights performance unless it adheres to certain principles, such as transparency.¹⁴⁷ This article thus seeks to connect several areas of scholarship. Specifically, the article contends that because an HRIA is political, similar to other forms of impact assessments, it must be subject to certain principles in order to be meaningful. For an HRIA to be more than a manifestation and re-enforcement of existing power relations, the power of involved parties must be effectively tempered by their adherence to common principles, namely a realized commitment to a transparent, comprehensive and accurate portrayal of human rights conditions.¹⁴⁸ There does not appear to be scholarship to date that examines the political nature of an HRIA using a combined case study and ethnographic method; this is the contribution this article seeks to make.

This article is organized into five sections. Following the introduction, Part 2 introduces the HRIA case study, including the methodology and background of the HRIA. Part 3

¹⁴⁴ *Ibid* at 241-42.

¹⁴⁵ *Ibid*.

¹⁴⁶ Cashmore et al, *supra* note 100. See e.g. Leon Hempel & Hans Lammerant, “Impact Assessments as Negotiated Knowledge” in Serge Gutwirth, Ronald Leenes & Paul de Hert, eds, *Reforming European Data Protection Law* (Heidelberg: Springer Dordrecht, 2015) 125 at 133: “[i]n the context of impact assessment knowledge and power are inextricably linked. Impact assessments produce knowledge, but are also the object or site of a struggle between interests. ... Defining what knowledge is, is in itself an element of power.”

¹⁴⁷ See e.g. Harrison, *supra* note 116 at 108.

¹⁴⁸ See *ibid* at 108; Götzmann, “HRIA”, *supra* note 117 at 99.

qualitatively analyzes the political nature of the HRIA. Part 4 discusses the findings, and finally, Part 5 provides a brief conclusion.

7.2. HRIA Case Study

7.2.1. Methodology

Using ethnographic analysis, this article analyzes the lead-up, execution and outcomes of an HRIA completed for the Toronto Ventures Pacific Incorporated (TVI) mining project at Mount Sitio Canatuan in the Philippines. It makes use of field research methods, including participant observation, storytelling, key informant interviews, focus group interviews and the textual analysis of various materials. The textual materials that constitute data are: fact-finding reports, in-depth journalistic investigations, government reports, feasibility studies, audited financial statements, management discussion and analysis reports, company annual reports and reviews.

Ethnography is a qualitative research method, one which Clifford Geertz notably termed a form of “thick description” in 1973.¹⁴⁹ Joseph G Ponterotto explains this form of research further: Thick description refers to the researcher’s task of both describing *and interpreting* observed social action (or behavior) within *its particular context*. ... Thick description accurately describes observed social actions and assigns purpose and intentionality to these actions, by way of the researcher’s understanding and clear description of the context under which the social actions took place. Thick description captures ... the often complex web of relationships among [participants].¹⁵⁰

¹⁴⁹ Clifford Geertz, “Thick Description: Toward an Interpretive Theory of Culture” in Clifford Geertz, ed, *The Interpretation of Cultures: Selected Essays* (New York: Basic Books, 1973) 3 at 6.

¹⁵⁰ Joseph G Ponterotto, “Brief Note on the Origins, Evolution, and Meaning of the Qualitative Research Concept Thick Description” (2006) 11:3 Qualitative Report 538 at 543 [emphasis added].

Field research was completed in the Mount Sitio Canatuan area and the immediately surrounding region over several periods while the HRIA was being conducted (spanning 7.5 months in 2006). The total time of fieldwork in the municipality spanned 41 months, commencing in December 2003 and concluding in September 2009. The analysis of textual sources related to the HRIA and the mine continued up to, and including, 2016.

7.2.2 Background to the HRIA Case Study

In 2005, a community representative from Siocon Municipality in Mindanao, Philippines and MiningWatch Canada's (MWC) Catherine Coumans, gave testimony to the 38th Canadian Parliament's Subcommittee on Human Rights and International Development.¹⁵¹ Her testimony focused on the activities of TVI, a Canadian-owned junior mining company, and their alleged human rights abuses.¹⁵² Alleged human rights abuses included those pertaining to forced relocation, security force violence and food insecurity.¹⁵³ Also appearing before the Subcommittee was Diana Bronson, of the Parliament-supported organization, Rights and Democracy (R&D).¹⁵⁴ Ms. Bronson testified that over the past 10 years, R&D had received credible complaints regarding Canadian mining practices that had a direct and negative impact on human rights in developing countries.¹⁵⁵

To address these human rights complaints against Canadian mining companies operating abroad, R&D proposed initiatives that aimed at improving the integration of human rights into the

¹⁵¹ House of Commons, Sub-Committee on Human Rights and International Development of the Standing Committee on Foreign Affairs and International Trade, *Evidence*, 38th Leg, 1st Sess, No 12 (23 March 2005) (Chair: David Kilgour) at 3-6 [House of Commons, "Human Rights Sub-Committee"], online: <www.parl.gc.ca/HousePublications/Publication>.

¹⁵² *Ibid.*

¹⁵³ *Ibid.*

¹⁵⁴ *Ibid* at 6-7.

¹⁵⁵ *Ibid.* See generally Sara Seck, "Home State Responsibility and Local Communities: The Case of Global Mining" (2008) 11:1 Yale Human Rts & Dev LJ 177 at 179-80 (describes the proceedings).

actions of corporations to prevent similar human rights violations in the future.¹⁵⁶ R&D proposed the development of an HRIA tool to be used by states and intergovernmental bodies.¹⁵⁷ It was envisioned that a comprehensive assessment of human rights would be conducted before agencies could provide financial, diplomatic and other means of support to companies.¹⁵⁸ The HRIA would pre-empt abuses since stakeholders would be alerted to the “potential problem areas and benefits of any investment”.¹⁵⁹

The Parliamentary Committee on Foreign Affairs and International Trade ultimately adopted the Sub-Committee on Human Rights’ 2006 report recommendation, urging the Government of Canada to:

Put in place stronger incentives to encourage Canadian mining companies to conduct their activities outside of Canada in a socially and environmentally responsible manner and in conformity with international human rights standards. Measures in this area must include making Canadian government support ... conditional on companies meeting clearly defined corporate social responsibility and human rights standards, particularly through the mechanism of human rights impact assessments.¹⁶⁰

The 2005 hearing did not lead to any legislative change where HRIAs would be mandatory for mining companies to receive governmental support; R&D was dissolved by Parliament a few

¹⁵⁶ House of Commons, “Human Rights Sub-Committee”, *supra* note 151 at 7.

¹⁵⁷ *Ibid.*

¹⁵⁸ *Ibid.*

¹⁵⁹ *Ibid.*

¹⁶⁰ House of Commons, Standing Committee on Foreign Affairs and International Trade, *Mining in Developing Countries: Corporate Social Responsibility* (Chair: Bernard Patry) at 2, online: <www.parl.gc.ca/committee/CommitteePublication>.

years later.¹⁶¹ However, shortly after the hearing, R&D did use its resources to fund HRIAs in five jurisdictions: Argentina, Congo, Peru, Philippines and Tibet.¹⁶² The pilot project conducted in the Philippines in 2006 is the focus of the current article. This article examines the politics underlying the beginning, execution and outcomes of this pilot project, until the mining operations were declared complete in 2014.¹⁶³

In 2007, the results of the five pilot R&D case studies were published.¹⁶⁴ A year later, R&D released its *Getting it Right: A Step by Step Guide to Assess the Impact of Foreign Investments on Human Rights*.¹⁶⁵ Following this, several more HRIAs were conducted, including Oxfam America's pilot case studies.¹⁶⁶ Oxfam America and R&D (2010) also produced *Community-Based Human Rights Impact Assessment: Practical Lessons*, which captured the experiences of pilot assessments conducted in Latin America, United States and the Philippines.¹⁶⁷ This report included guidelines on preparing for a Community-Based HRIA, understood as a community-centered assessment method and advocacy tool, as well as tips for creating an interdisciplinary team.¹⁶⁸ These tips included how

¹⁶¹ Carys Mills, "Seeking 'Clean Slate,' Baird Pulls Plug on Rights & Democracy", *The Globe and Mail* (3 April 2012), online: <www.theglobeandmail.com/news/politics/ottawa-notebook/seeking-clean-slate-baird-pulls-plug-on-rights-democracy/article2390896/>.

¹⁶² Rights and Democracy, *Human Rights Impact Assessment for Foreign Investment Projects: Learning from Community Experiences in the Philippines, Tibet, the Democratic Republic of Congo, Argentina, and Peru* (Montréal: Rights and Democracy, 2007) [R&D, "HRIA"], online: <publications.gc.ca/collections/collection_2007/dd-rd/E84-21-2007E.pdf>.

¹⁶³ "TVI Pacific Closes Zamboanga Mine", *ABS-CBN News* (21 January 2014), online: <news.abs-cbn.com/business/01/21/14/tvi-pacific-closes-zamboanga-mine>.

¹⁶⁴ See R&D, "HRIA", *supra* note 162.

¹⁶⁵ Rights and Democracy, *Getting it Right: A Step by Step Guide to Assess the Impact of Foreign Investments on Human Rights* (Montréal: Rights and Democracy, 2008) [R&D, "Getting it Right"], online: <www.ideaspaz.org/tools/download/47402>.

¹⁶⁶ See e.g. Gabrielle Watson, Irit Tamir & Brianna Kemp, "Human Rights Impact Assessment in Practice: Oxfam's Application of a Community-Based Approach" (2013) 31:2 *Impact Assessment & Project Appraisal* 118 at 119.

¹⁶⁷ Oxfam America & Rights and Democracy, *Community-Based Human Rights Impact Assessment: Practical Lessons: Report From an International Meeting, Canada 2010* (Rights and Democracy & Oxfam America, 2010), online: <oxfamamerica.org/static/media/files/community-based-human-rights-impact-assessments-practical-lessons.pdf>.

¹⁶⁸ *Ibid* at 15: "[t]he methodology was also conceived as a tool for creating opportunities for communities to effectively voice their concerns."

to understand and interact with the communities and stakeholders, how to write the report and finally how to ensure that an HRIA's results were influential.¹⁶⁹

Several extractive industry companies had already attempted to refine corporate practices *vis-à-vis* their community engagements.¹⁷⁰ However, the companies' methodologies were closer to that of an ESIA than an HRIA, because they did not follow "a broad human rights-based approach."¹⁷¹ At that time, there was no HRIA model in existence.¹⁷² R&D's HRIA was specific to foreign direct investment projects, and its methodology involved the community assessing the impact of the investment as to ensure participation.¹⁷³ After R&D's HRIA methodology was released, and prior to the completion of the HRIA in the Philippines, the mining company in the area used this methodology to perform its own HRIA of the Canatuan mining investment.¹⁷⁴ The results of this assessment were never released.¹⁷⁵

7.2.3 The Mining Investment at Mount Sitio Canatuan

The HRIA was conducted at Sitio Canatuan in the Siocon Municipality, Zamboanga del Norte in the Southern Philippines. The site was located at the foothill of Mount Canatuan, a sacred mountain near the Indigenous Subanons in the area. After artisanal miners found gold in the mid-1980s, Mount Canatuan was transformed into a small-scale mining community. The Indigenous

¹⁶⁹ *Ibid.*

¹⁷⁰ Olga Lenzen & Marina d'Engelbronner, *Guide to Corporate Human Rights Impact Assessment Tools* (Utrecht: Aim for Human Rights, 2009) at 15, online: <<https://commdev.org/wp-content/uploads/2015/06/Human-Rights-in-Business-Guide-to-Corporate-Human-Rights.pdf>>. Such attempts included Anglo American's socio-economic toolbox; Rio Tinto's Community Relations Standard, which required community assessments related to risks and opportunities over the medium to long term; Shell's initiative to test Human Rights Compliance Assessment (HRCA) tools in several countries; and BP's Environmental and Socio-Economic Impact Assessment (ESIA) that included human rights issues in Georgia, Azerbaijan and Indonesia (*ibid*). Shell was the first company to test HRCA tools and advise the Danish Institute for Human Rights on their development (*ibid*).

¹⁷¹ See generally *ibid*.

¹⁷² UNESCO, 62nd Sess, UN Doc E/CN.4/2006/97 (2006) at para 35.

¹⁷³ R&D, "HRIA", *supra* note 162 at 18.

¹⁷⁴ *Ibid* at 44.

¹⁷⁵ *Ibid*.

Subanons and small-scale miners were initially hostile to one another; however, when a mining company staked claims in Canatuan, both groups formed an alliance and opposed large-scale mining operations.¹⁷⁶

The mining company that invested in the project was Canadian-owned TVI (TSX-V:TVI), a publicly-listed junior resource company that was incorporated under the Alberta Business Corporation Act in 1987.¹⁷⁷ Its initial mineral exploration activities were in British Columbia and Saskatchewan.¹⁷⁸ Many of these activities were shortly abandoned to explore the company's business activities in the Philippines.¹⁷⁹ By 1997, TVI managed to assemble a property portfolio consisting of 21 projects that covered more than 1 million hectares including Canatuan.¹⁸⁰ In January 1994, TVI signed an exploration agreement with Benguet Corporation.¹⁸¹ This agreement included an option to purchase a 100% interest in 486 hectares of the Canatuan property.¹⁸² The property was subject to a 4% royalty.¹⁸³ TVI purchased a 3% royalty interest at a price of \$1.4 million USD.¹⁸⁴ TVI later exercised its option to purchase a 100% interest in the relevant property

¹⁷⁶ Penelope Sanz, "The Politics of Consent: The State, Multinational Capital and the Subanon of Canatuan" in Augusto B Gatmaytan, ed, *Negotiating Autonomy: Case Studies on Philippine Indigenous Peoples' Land Rights* (Copenhagen & Quezon: International Work Group for Indigenous Affairs & Legal Rights and Natural Resources Center - Kasama sa Kalikasan/Friends of the Earth-Philippines, 2007) 115 at 115-16 [Sanz, "Politics of Consent"].

¹⁷⁷ Electronic filing of most securities-related information with the Canadian securities regulatory authorities started on January 1st, 1997. In that year, TVI Pacific's board of directors who hailed from Colorado, Alberta, and Hong Kong. Clinton Jesse held the most number of shares of 689,746. See TVI Pacific Inc., "Information Circular for the Annual and Special Meeting of Shareholders to Be Held Wednesday, June 25, 1997" (23 May 1997) at 3-4, online: <sedar.com/DisplayCompanyDocuments.do?lang=EN&issuerNo=00001837>.

¹⁷⁸ TVI Pacific Inc., "Management Discussion and Analysis" (20 May 1997) at 1, online: <sedar.com/DisplayCompanyDocuments.do?lang=EN&issuerNo=00001837>.

¹⁷⁹ *Ibid.*

¹⁸⁰ TVI Pacific Inc., "Annual Report: Isles of Gold" (20 May 1997) at 1 [TVI, "Isles of Gold"], online: <sedar.com/DisplayCompanyDocuments.do?lang=EN&issuerNo=00001837>.

¹⁸¹ Founded in 1903, for much of the 20th century Benguet Corporation had the largest gold mining operation in the Philippines. Tina Grant, *International Directory of Company Histories*, vol 58 (Farmington Hills, Mich: St. James Press, 2003) at 21-23.

¹⁸² TVI, "Isles of Gold", *supra* note 180 at 9; TVI Pacific Inc. *Annual Information Form* (2011) at 22, online: <s1.q4cdn.com/531881216/files/doc_financials/TVIAIFDraft19FINALVERSION.pdf>.

¹⁸³ TVI, "Isles of Gold", *supra* note 180- at 23.

¹⁸⁴ *Ibid.*

and in 1996, the Mineral Production Sharing Agreement with the Philippine government for TVI's Canatuan project was signed.¹⁸⁵ As of 2000, TVI's land holdings and applications in Canatuan totaled about 37,155 hectares.¹⁸⁶ These holdings included the Subanons' ancestral domain comprised of 8,213.5020 hectares.¹⁸⁷ The mine reserves delineated area, covered under a mineral production sharing agreement, was 508 hectares.¹⁸⁸

In the mid-1990s, TVI was an exploration company that was transitioning into a mining company.¹⁸⁹ TVI initially lacked the operations to provide cash flow and investments to produce income.¹⁹⁰ In November 1996, the pilot plant started to operate as a "dry run" training and testing site.¹⁹¹ TVI, like other junior mining companies, also turned to public equity markets but access to these opportunities were limited.¹⁹² TVI's Canatuan project was the most advanced project to go into production.¹⁹³ It was described as a "low capital cost, high financial return" operation from which TVI would obtain a substantial cash flow.¹⁹⁴ Canatuan's mineable reserves were projected to sustain a mine life of seven years, at a mining rate of 1,850 tonnes per day in gossan ore and 850 tonnes per day in sulphide project.¹⁹⁵ It was projected to have a return of investment in less than two years for its first phase.¹⁹⁶

¹⁸⁵ *Ibid* at 6.

¹⁸⁶ TVI Pacific Inc., "1999 Annual Report" (29 May 2000) at 1 [TVI, "1999 Annual Report"], online: <sedar.com/DisplayCompanyDocuments.do?lang=EN&issuerNo=00001837>.

¹⁸⁷ See Land Registration Authority, *Certificate of Ancestral Domain Title No. R09-CADT-SIO-0403-0005* (Quexon City, Philippines: 2003).

¹⁸⁸ TVI, "1999 Annual Report", *supra* note 186 at 1.

¹⁸⁹ TVI Pacific Inc., "Management Discussion and Analysis" (26 May 2000) at 1 [TVI, "2000 MD & A"], online: <sedar.com/DisplayCompanyDocuments.do?lang=EN&issuerNo=00001837>.

¹⁹⁰ *Ibid*.

¹⁹¹ The plant's capacity was a 50 tonnes per day carbon-in-leach gold extraction. See TVI, "Isles of Gold" *supra* note 145 at 2.

¹⁹² TVI Pacific Inc., "Annual Report" (20 May 1998) at 20 [TVI, "Annual Report"], online: <sedar.com/DisplayCompanyDocuments.do?lang=EN&issuerNo=00001837>.

¹⁹³ TVI, "2000 MD & A", *supra* note 189 at 1.

¹⁹⁴ *Ibid* at 5.

¹⁹⁵ *Ibid*.

¹⁹⁶ *Ibid* at 21.

Despite the Canatuan project's robust mineral economics, TVI faced challenges in its operations due to various events, including Marcopper Philippines' tailings spill in Marinduque, a low gold metal price in the world market, the 1998 Asian financial crisis and the Calgary-based Bre-X Minerals Ltd fraud in 1996.¹⁹⁷ More importantly, TVI failed to obtain adequate financing to proceed to commercial production.¹⁹⁸ Despite receiving a joint offer of finance from Rothschild Australia Limited and Bayerische Veriensbank AG, neither one of these potential investors followed through with their offers.¹⁹⁹ TVI explained that Rothschild Australia and Bayerische required more data from the company.²⁰⁰

It is also possible that the Subanons in Canatuan and their supporters had succeeded in widely publicizing the company's lack of social acceptability. In 1999, a Japanese Group looking to finance the Canatuan project, observed a deteriorating security situation in the region.²⁰¹ There had also been at one point a four-month long barricade and protests against TVI's operations by small-scale miners and the Indigenous Subanons.²⁰² These protests resulted in violent dispersals and the arrest of 50 Subanon protestors.²⁰³ The Japanese Group did not finalize the financing agreement and as a result, TVI reported the deteriorating security situation in the Southern Philippines.²⁰⁴

Beginning in 1996, TVI was subject to several fact-finding missions by various government agencies, as well as national and international NGOs, in response to alleged human

¹⁹⁷ *Ibid* at 1; TVI, "Isles of Gold", *supra* note 180 at 1-4.

¹⁹⁸ TVI, "Annual Report", *supra* note 192 at 21.

¹⁹⁹ *Ibid*.

²⁰⁰ *Ibid*.

²⁰¹ TVI, "1999 Annual Report", *supra* note 186.

²⁰² Tri-People Concern for Peace, Progress and Development of Mindanao, *Report of the Fact-Finding Mission Conducted on April 2-7, 1997 and the Follow-up Missions Done in the Period of May to October 1997 in Canatuan* (Philippines, 1997), cited in R&D, "HRIA", *supra* note 162 at 56, n 38.

²⁰³ *Ibid*.

²⁰⁴ TVI, "1999 Annual Report", *supra* note 91 at 2: "[u]nfortunately, the completion of financing has been delayed due to concern on the part of potential sources of finance over the security situation in the Southern Philippines."

rights violations. A Philippine based NGO, Tri-People Concern for Peace, Progress and Development of Mindanao (TRICOM), conducted the first fact-finding mission.²⁰⁵ TRICOM reported human rights abuses committed by the company's paramilitary security guards, including forced evictions, harassments and assaults.²⁰⁶ The government's Commission on Human Rights followed up these reports, and a connection was made between human rights abuses in the area and development aggression.²⁰⁷ The government's Mines and GeoSciences Bureau and Department of Environment and Natural Resources (DENR), conducted separate fact-finding missions that determined a lack of prior consent from the Subanons.²⁰⁸ Nevertheless, despite these fact-finding mission reports, the company was never successfully charged with human rights abuses in court in spite of efforts by the Indigenous Subanons to file a number of claims.²⁰⁹

The company eventually established financing sufficient to enable it to move to the extraction and commercial production phase of its operations.²¹⁰ By the time R&D's HRIA was conducted in 2006, the company was already in the extraction and commercial production stage. At this time, the Philippine and Canadian governments had both hailed TVI as a "responsible miner."²¹¹

²⁰⁵ Tri-People, *supra* note 202.

²⁰⁶ *Ibid.* See also Christian Aid & Philippines Indigenous Peoples Link, *Breaking Promises, Making Profit: Mining in the Philippines* (London: Christian Aid and Piplinks, 2004) at 36-41.

²⁰⁷ Memorandum from the Republic of the Philippines, Commission on Human Rights to the Legal Section (2 May 2002) at 4, cited in R&D, "HRIA", *supra* note 162 at 57, n 90 (the memorandum discusses the Final Investigation Report for Development Aggression Victims).

²⁰⁸ Sanz, "Politics of Consent", *supra* note 176 at 117-18.

²⁰⁹ Apu Manglang Glupa' Pusaka et al, *Submission to the Committee on the Elimination of All Forms of Racial Discrimination Regarding Discrimination Against the Subanon of Mt Canatuan, Siocon, Zambonga del Norte, Philippines in the Context of Large-Scale Gold Mining on Their Ancestral Domain*, 71st Sess., (2007) at paras 65-68, online: <www.piplinks.org/system/files/Subanon_CERD.pdf>.

²¹⁰ TVI Pacific Inc., "Interim Report to Shareholders for the Three Months Ended March 31, 2004" (14 May 2004) at 1-2, online: <sedar.com/DisplayCompanyDocuments.do?lang=EN&issuerNo=00001837>.

²¹¹ See TVI Resource Development Philippines Inc., News Release, "TVI A Success Story, Model of Best Practices Say RP Environment Secretary, Canadian Ambassador at Gossan Dam Rites" (16 May 2006), online: <<http://tvird.com.ph/tvi-a-success-story-model-of-best-practices-say-rp-environment-secretary-canadian-ambassador-at-gossan-dam-rites/>>. The Philippines' environmental secretary, Reyes, noted that TVI met three criteria of a responsible mining operation, including that TVI "contributes to economic growth, creates social equity, and participates in the protection and sustainable development of the country and its resources."

7.3 Analysis: Political Dimensions of the HRIA

The following section analyzes the political dimensions of the HRIA in four sub-parts. First, it identifies the key actors. Second, it discusses how the positionality of involved parties shaped the HRIA's execution, broadly speaking. Third, it examines the HRIA's methodology, as initially proposed by R&D, and as eventually implemented. Finally, it discusses the HRIA's legacy, including responses to the assessment.

7.3.1 Actors Involved

The Philippine pilot project was proposed to R&D by a network (the “consortium”) of Philippine-based groups, as well as international advocates who were engaged in human rights defense, mining monitoring and Indigenous rights.²¹² In total the consortium was composed of two local peoples' organizations, three regional NGOs, one national NGO, and three international NGOs. These actors were situated in various locations, with different mandates, worldviews, expertise and agendas. What bound them together was their critical stance on mining, which impacted their way of life, culture, livelihood, environment, Indigenous rights development perspectives and agenda; and that ultimately impelled them to contest the Philippine State's mineral liberalization.

The consortium was originally composed of two community-based organizations including, Apu Manglang Glupa Pusaka (AMGP) and Save Siocon Paradise Movement (SSPM). AMGP was a Subanon Indigenous group that saw its members as the legitimate and rightful traditional leaders of Canatuan, as opposed to the state- and TVI-invented and recognized leadership group, the Council of Elders.²¹³ SSPM was an alliance of farmers, fish-farmers and

²¹² See Letter from the Philippines case study proponents to Diana Bronson, Coordinator of Globalization and Human Rights Programme, Rights and Democracy (31 March 2005).

²¹³ Sanz, “Politics of Consent”, *supra* note 176 at 119-20.

fishing associations; its members were a mix of Christian migrant settlers, Muslims and Indigenous peoples. SSPM was organized after leaders of the sectoral organizations and their members in Siocon staged a barricade at the foothills of Canatuan to prevent TVI's mining equipment from reaching the area in March 2004.²¹⁴

The three regional organizations included, Pigsalabukan Bansa Subanon (PBS), Zamboanga del Norte Peoples' Alliance Against Mining (ZAMPAAM) and Diocese of Dapitan, Iligan, Ozamis, Pagadian, Ipil and Marawi's (DIOPIM) Committee on Mining on Mining Issues (DCMI). PBS was an Indigenous peoples' organization of Subanon tribes covering the Zamboanga Peninsula. Based in Pagadian City in Mindanao, in the Southern Philippines, PBS's main objective was to revive and restore customary laws and traditional Subanon practices. ZAMPAAM was a newly formed organization that was allegedly aligned with the Reaffirmists' line of national democracy ideology. ZAMPAAM's formation dovetailed with the public hearing held by Congressmen Satur Ocampo and Joel Virador in Siocon in October 2004.²¹⁵ Finally, DCMI was a Roman Catholic Church led advocacy group, comprised of Social Action Directors, NGOs and Indigenous Peoples' groups that worked with mining affected communities. They helped organize the SSPM and were involved in organizing community events in Siocon Municipality and Sitio Canatuan.

The nationally-based organization was the Legal Rights and Natural Resources Center, Inc.-Kasama sa Kalikasan (LRC-KSK/Friends of the Earth-Philippines). LRC-KSK was a policy and legal research and advocacy institution that worked to empower marginalized

²¹⁴ See Penelope Sanz, "Voices From the Pisawak Picket Line", *MindaNews* (30 March 2004) (provides a description of the protests at the foothills of Mt. Canatuan). See also Penelope Sanz, "Collision of Two Worlds", *News Break* (30 August 2004) at 3, online: <archives.newsbreak-knowledge.ph/2004/08/30/collision-of-two-worlds-2/>.

²¹⁵ In the 2007 Philippine HRIA Report, only eight of the nine proponents were credited as authors. ZAMPAAM became inactive in research management concerns due to security threats against its leader and representative to the consortium.

Indigenous peoples and rural communities, who were directly dependent on natural resources. LRC-KSK worked closely with community partners and followed participatory principles in community engagement.

The three international group members of the consortium were the United Kingdom-based Philippine Indigenous Peoples Links (PIPLinks), Tebtebba (Indigenous Peoples' International Centre for Policy Research and Education) and MWC. PIPLinks was a network of individuals and organizations that “exist[ed] to uphold and promote the collective and individual human rights of Indigenous Peoples and other land-based communities.”²¹⁶ Tebtebba was an Indigenous peoples' organization, based in the Philippines, with the mandate to promote a better understanding of the world's Indigenous peoples, their worldviews, as well as their issues and concerns. MWC was a pan-Canadian initiative that provided technical and strategic skills to communities and organizations, advocated for the reduction of risks in mineral development, as well as the use of appropriate terms and conditions in mining.²¹⁷ These international organizations were instrumental in drawing international attention to the company's human rights and Indigenous rights' abuses in Sitio Canatuan. Through their individual and collaborative efforts, the Subanons gained an audience with the United Nations Working Group on Indigenous Populations in 2001,²¹⁸ followed by the Canadian Parliament in 2005,²¹⁹ and the United Nations Committee on the Elimination of all Forms of Racial Discrimination (UNCERD) in 2007.²²⁰

²¹⁶ See online: <www.piplinks.org/>.

²¹⁷ See online: <www.miningwatch.ca/about>.

²¹⁸ Commission on Human Rights, *Prevention of Discrimination and Protection of Indigenous Peoples: Report of Working Group in Indigenous Populations on its Nineteenth Session*, UNESCOR, 53rd Sess, UN Doc E/CN.4/Sub.2/2001/17 (2001).

²¹⁹ See House of Commons, “Human Rights Sub-Committee”, *supra* note 151.

²²⁰ See Apu Manglang, *supra* note 210.

Most members of the consortium were also a part of a bigger network called Task Force Canatuan (TFC). TFC was formed in 2004, to consolidate the various organizational strategies used “to resist TVI and advance a development framework that support[ed] the needs and aspirations of the local community.”²²¹ The HRIA process addressed several challenges that TFC identified in a strategizing workshop.²²² These challenges included gathering evidence and collecting existing documents that would eventually lead to a legal claim.²²³ Using information and education campaigns, TFC aspired to alert the people in Siocon and Canatuan of their human rights, Indigenous peoples’ rights, environmental rights and other important factors.²²⁴ The consortium attempted to use the HRIA to inform, educate and organize community members and groups in various areas where TVI was expected to operate in the future; the consortium defined the HRIA as a citizen activism tool.²²⁵

7.3.2 Party Positionality and the HRIA’s Broad Execution

A closer look at the HRIA’s initiative revealed problems with the agenda, positionality and dynamics of the different actors in the pilot study. Review of the HRIA’s initiative showed the HRIA as a tool for assessment, advocacy and inciting activism; and it served various agendas of the consortium members, R&D and researchers. The agenda of R&D was to test this HRIA tool. This goal had clear political underpinnings, including seeking to effect change in Canadian companies’ policies when operating abroad, and making the HRIA available to the Canadian Government to encourage governmental officials to examine their support of Canadian corporations. Internationally, R&D was also seeking to develop a Community-Based HRIA

²²¹ Penelope Sanz, “Summary of the Proceedings of the Canatuan Strategizing Workshop”, Field Notes (Dipolog, Zamboanga del Norte, 2004).

²²² *Ibid.*

²²³ *Ibid.*

²²⁴ *Ibid.*

²²⁵ The consortium conducted human rights and paralegal trainings by LRC-KSK.

methodology.²²⁶ At the community level, R&D presented that it “[sought] to promote the involvement of communities through the entire human rights impact assessment process in order to provide them with the means to become key players in the decision-making process.”²²⁷

The consortium’s overall agenda was to oppose TVI’s operations through human rights advocacy, education and training, and to collate documents and gather new data. The HRIA output was perceived as crucial to structuring and filing a complaint against the company at the United Nations level; the Subanons, at this point, had already filed several cases in the local courts but had never been given a hearing.²²⁸ At the management level, an Executive Planning Group (EPG) was setup to oversee the HRIA’s implementation, which included organizing focus group interviews, identifying environmental experts, organizing and conducting training on human rights and Indigenous rights in identified areas, as well as financial management.²²⁹ The Subanon tribal chieftain of Canatuan had the role of approving or rejecting the EPG’s recommendations, including the recruitment of the Philippines-based HRIA Research Coordinator. The HRIA’s implementation was delayed for several months, because of a disagreement on the choice of Research Coordinator. The Research Coordinator would carry out the task of ultimately drafting the HRIA.

The disagreement about the Philippines-based Research Coordinator was rooted in positionality and differing political lines.²³⁰ Initially, the selected Research Coordinator declined the offer due to prior commitments and security issues; the investment was in a conflict area and the case was highly controversial. This politicization was amplified by the anti-mining advocacy

²²⁶ R&D, “Getting it Right”, *supra* note 165 at 4.

²²⁷ *Ibid.*

²²⁸ Apu Manglang, *supra* note 210.

²²⁹ The EPG was composed of representatives of the LRC-KSK, ZANPAAM, DCMI, SSPM and AMGP.

²³⁰ See Nathan Gilbert Quimpo, “The Left, Elections, and the Political Party System in the Philippines” (2005) 37:1 Critical Asian Studies 3 at 25-26, n 36 (these differing political lines were between the rejectionist and reaffirmist approaches).

of the Philippines' HRIA proponents. Upon learning that the tribal chieftain had repeatedly endorsed one candidate for the research position to the EPG, this endorsed candidate was chosen as the Research Coordinator.²³¹ The other EPG members considered the candidate to be acceptable, because although not a part of their organizations, the candidate was seen as one of their own. To the consortium, the selected Research Coordinator presented themselves as an academic and a professional researcher. The Research Coordinator was someone who was independent of anti-mining groups; but who was also a social activist belonging to a university-based organization, focused on the creative and critical promotion of the rights, cultural identity, initiatives, assertions and social movements of Indigenous peoples in Mindanao.

Upon the eventual implementation of the HRIA, there were two researchers, a Philippines-based Research Coordinator, who was enlisted by the consortium, and a Canadian-based researcher who worked for R&D. Both researchers had their own agendas and research objectives. As noted by Elizabeth Chiseri-Strater "[a]ll researchers are positioned. ... by age, gender, race, class, nationality, institutional affiliation, historical-personal circumstance, and intellectual predisposition. ... whether they write about it explicitly, separately, or not at all."²³²

The consortium sought to produce a report that was "professionally credible" and that applied "technical and professional input".²³³ However, consortium members did not present

²³¹ The Research Coordinator had previously worked with the Subanons in charting their genealogy, and therefore in working in the area, she understood the context and security issues in the Siocon and Canatuan regions. The Moro Islamic Liberation Front, a secessionist rebel group, had attacked the Siocon Municipality in 2003, killing 22 people and taking 13 civilian hostages. See "Fierce Battle for Philippines Town", *BBC News* (4 May 2003), online: <news.bbc.co.uk/2/hi/asia-pacific/2999867.stm>. TVI personnel and local residents of Canatuan were also killed in an ambush by the Moro Islamic Liberation Front. See Rebecca Keenan, "TVI to Continue Philippines Operation Despite Ambush", *Mines and Communities* (14 January 2003), online: <www.minesandcommunities.org/article.php?a=1609>.

²³² Elizabeth Chiseri-Strater, "Turning in upon ourselves: Positionality, Subjectivity and Reflexivity in Case Study and Ethnographic Research" in Peter Mortensen & Gesa Kirsch, eds, *Ethics and Representation in Qualitative Studies of Literacy* (Urbana: National Council of Teachers of English, 1996) 115 at 115.

²³³ Penelope Sanz, Field Notes (15 March 2006).

themselves as a neutral body, and held that R&D was not expecting a neutral piece of research, expressing their apprehension and perception that social scientists would not produce a neutralized report.²³⁴ The contract and terms of reference between the Philippine-based Research Coordinator's institution, Mindanawon Initiatives and Cultural Dialogue (herein referred to as Mindanawon), and the consortium, further revealed a hierarchy, where the consortium's NGOs and activists perceived the social scientists as mere employees. It was framed as a contractual labour agreement rather than a research-partnership. As a member of Mindanawon's Board of Directors commented, "these activists should have a more collegial respect for fellow-activists" and they further stated:

We—engaged social scientists working on Mindanaw issues—are not mercenaries or technicians, who don't care about the cause or the problem. We have invested ourselves in this and other issues, at times at risk to ourselves. It is disappointing that our fellow-activists seem to see us only as people-for-hire seeking employment, and not comrades-in-arms seeking justice. You work side-by-side with your comrades; you do not subordinate them by turning them into hirelings. Or are they saying that we do not, for some reason, qualify as their comrades?²³⁵

Positionality and power also arose with respect to ownership of the HRIA's research data. The consortium was composed of various community actors and a supporting group. Therefore, there was an assumption that the consortium was a repository of knowledge, and the work carried out by the Research Coordinator would involve consolidating and conducting an inventory of existing data, including several reports about the Canatuan case that had already been published.²³⁶

²³⁴ *Ibid.*

²³⁵ Letter from Mindanawon Board Member to Mindanawon Board (14 March 2006).

²³⁶ See e.g. Tri-People, *supra* note 202; Christian Aid, *supra* note 205.

Mindanawon had to point out to the consortium that the HRIA methodology itself was still developing, suggesting that new knowledge, data and findings had yet to emerge.²³⁷

The contractual structuring and funding of the HRIA, as it was initially established, later affected issues of ownership, acknowledgement and the accountability of the report. The Research Coordinator's contractual responsibility included gathering data, analysis and writing the assessment report. The Research Coordinator also assisted with the oral translation of each element of the written report for the EPG, so that the report could be verified and validated by community-based members of the consortium. In R&D's final publication of the Philippine case study, the Research Coordinator's role was acknowledged with a statement that read "[s]pecial thanks to: Ms. Penelope Sanz (Mindanawon Initiatives for Cultural Dialogue), research coordinator."²³⁸ This level of acknowledgement had resulted, in part, from how the contract with the Research Coordinator had been concluded with the supporting consortium, and not with R&D itself. Despite the consortium members being listed as the authors of the published report, the consortium members themselves were disappointed with the final product. Many details were deleted by an editor hired by R&D in Canada, who reduced the original 20,000 word report to 10,000 words.

Another political aspect that influenced the HRIA process was the presence of the "white" Canadian graduate student researcher who was working for R&D. Their presence opened doors and made the information gathering from government agencies and the company easier. It also facilitated access to the Canadian Embassy, including access to conduct interviews. Initially, the Embassy invited R&D's staff for a dinner to presumably disclose matters that were for Canadian researchers; however, when the Canadian researcher indicated

²³⁷ Penelope Sanz, Field Notes (17 March 2006).

²³⁸ R&D, "HRIA", *supra* note 162 at 54.

that the Philippines Research Coordinator should also attend, the dinner never materialized. At the community level, the Canadian researcher's presence at focus group interviews raised expectations of a resolution (i.e. the stoppage of mining operations). In the field, the presence of a "white" researcher had the potential to be a serious security issue since the province was in a conflict area with "lost commands."²³⁹

A review of this HRIA shows the complex dynamics and interactions of the positionality among involved actors. Each of the actors, including the proponents, the researchers, the company and R&D, were motivated by various agendas and backgrounds. All actors had power relationships amongst one another, influencing issues such as the selection of research personnel, the financing of the assessment, the form and content of the assessment, the editing of the assessment, the acknowledgement and ownership of the assessment, as well as access to sources and informants.

This case study supports the contention that positionality at the organizational and individual level must be addressed in the structuring and production of an HRIA. Abstract categorizations of an assessment as "impartial" or "independent" or "objective" must be tempered with the acknowledgement of factual relationships that involve funding, hierarchy and decision-making. Unlike judges who aim to safeguard impartiality, an HRIA researcher is ultimately a contractor, purposively hired by a party (or parties) involved in a given policy debate, whether by anti-project activists or by the company itself. As the article explores in the discussion section, the HRIA researcher can still produce reliable and credible evidence, despite the positionality inherent in an HRIA, by, for example, choosing a higher level of factual and methodological disclosure.

²³⁹ Glenda M Gloria "The Road to Sirawai" *News Break* (8 July 2002), online: <archives.newsbreak-knowledge.ph/2002/07/08/the-road-to-sirawai/>.

7.3.3 Positionality and the HRIA Assessment Methodology

This section analyzes methodological issues related to (i) information gathering, (ii) language use, (iii) researchers' interpretations of existing knowledge, (iv) the definition of community and (v) assessment timelines.

7.3.3.1. Information Gathering: Selection of Informants & Survey vs. Fieldwork

When it was introduced in 2006, R&D's HRIA methodology was not entirely new. It had some elements similar to a Social Impact Assessment (SIA), such as scoping and research on the country's legal framework.²⁴⁰ R&D's HRIA methodology also outlined ways to adapt the guide through the selection of applicable human rights. It also included phases of the investigation process, including: expert and key informant interviews, identification of contested issues, validation, analysis and report preparation, engagement, monitoring and follow-up, and selecting questions relevant to the community.

These were all standard phases of field research and raised common concerns, including the selection of key informants. The draft R&D methodology was initially conceived as a survey, yielding yes or no answers. This left the criteria for key informants loosely determined. However, in contrast to this approach, the Research Coordinator chose to employ an extended field dimension to the information gathering. The Research Coordinator chose this approach to have as much time as possible to ensure optimal selection of key informants and focus group interview participants, as well as to ensure cross-confirmation of findings using multiple data sources and iterative validation. The community-based peoples' organizations and networks identified the majority of key informants and organized the focus group interviews. Unfortunately, most of these

²⁴⁰ See e.g. Marco Consiglio et al, "A Guide to Social Impact Assessment in the Oil and Gas Industry" (Paper delivered at the Society of Petroleum Engineers, International Health, Safety & Environment Conference, Abu Dhabi, United Arab Emirates, 2-4 April 2006 at 3.

organizations were male dominated, and as a result, women's voices were subsumed on specific issues, e.g. topics related to fish-farmers and farmers.

Consistent with the analysis by Melish and Meidinger, community members may be more reluctant to speak openly, and even more so, when approached by foreign consultants.²⁴¹ Anticipating this, the Philippine case study used map-making, time-lining techniques and storytelling to capture community members' experiences and sense of place prior to the implementation of the foreign investment, at the time the company began extraction and after the presence of either small or large-scale mining in the area. From here, community members told their stories and narratives about their culture, way of life, perceptions, fears and experiences, in relation to geographical locations and meanings, and their sense of power or disempowerment. If R&D's HRIA had been designed as a survey, community members' notions about vulnerability and human frailty would not have been heard or understood. Secondary data was also used, as were intensive key informant interviews in the communities.

A further problem concerning data gathering arose when research proponents who wanted to resist the company had ideas on how to conduct research. The proponents asserted that focus group interviews that were conducted with company executives and employees were hostile. This political agenda to resist TVI conflicted with the purpose of the HRIA (i.e. to create dialogue that encouraged the mining company to address its social impacts). These divergent approaches were

²⁴¹ Tara J Melish & Errol Meidinger, "Protect, Respect, Remedy and Participate: 'New Governance' Lessons for the Ruggie Framework" in Radu Mares, ed, *The UN Guiding Principles on Business and Human Rights: Foundations and Implementation* (Boston: Martinus Nijhoff, 2011) 303 at 312: "an overemphasis on individual mimicry of standardised global forms tends likewise to lead to decontextualised systems that are unresponsive to localised problems or particular community needs."

a result of the way that human rights, as a political tool, provided both a discourse for adjudication of conflict (i.e. between competing rights) and a framework for cooperative negotiations.²⁴²

Another issue involved the variety of motivations and expectations of informants who participated in the process. The focus group interviewees were informed that the HRIA was a human rights research project, funded by R&D, an organization funded by the Canadian Parliament. As a result, one of the often-repeated questions by key informants and participants was: how could the HRIA bring tangible solutions to existing problems related to mining? For example, the farmers downstream raised the issue of siltation, because the changes in the water quality had reduced their fish harvests. The Indigenous anti-mining Subanon group aspired for a cease in mining operations, or as a better alternative, for TVI to retreat and leave their area. Inadvertently, there were high expectations concerning the impact of the HRIA among diverse community members, who were educated about their rights through human rights training.

7.3.3.2 Language of Assessment

R&D's draft HRIA guide was in English and was not translated into the local vernacular. The Philippines has 171 languages. In the mining site alone, at least four languages were spoken in the community: Subanon, Cebuano, Tagalog and English. The lack of translation posed a challenge for the implementation of the HRIA, because the foreign language of the materials alienated local actors from the HRIA process. It was unclear who had the key responsibility of translating the guide into the relevant vernacular.

Further, thinking about the HRIA methodology and politics, human rights themselves were a *language* and a discourse. The HRIA developed new vocabularies in the communities

²⁴² Ignatieff, *supra* note 109 at 20.

that were necessary to address human rights terms that were not translatable into the local vernacular. For communities that had undergone militarization and armed conflicts, human rights were associated with the left; a group composed of social activists and the NGOs who oppose and expose state repression. The elite and the Philippine government usually labeled these human rights supporters as troublemakers and/or communists. People often fell into one of these opposition groups. This human rights discourse was politically charged, and as a result, could be used as a tool to empower the powerless.

7.3.3.3 Status and Interpretation of Existing Knowledge

Since the consortium members were community actors themselves, organizing focus group interviews and contacting key informants who were victims of the company's human rights abuses was easier to accomplish. These members were repositories of knowledge and history. However, there was an assumption that substantial research had been conducted prior to the implementation of the HRIA; and that the majority of this literature had been written against the company. This literature represented a biased interest that encouraged a careful and sensitive perspective in the use of these materials. These materials were created in a politicized, highly charged context, which undermined their reliability. Further, due to the company's high employment turnover rate, tapping into the company's institutional memory was quite challenging. Management personnel also tended to treat human rights violations as a figment of their imagination (or an "untruthful allegation") saying, "if it happened at all".²⁴³

Both sides (i.e. for and against the investment) militantly deployed their respective rhetoric. The views of the majority might have been obscured, because of the weak association with either side, along with the nuances in the positions of the various actors and non-actors. It was imperative

²⁴³ Penelope Sanz, Field Notes (5 April 2006).

not to take the existing literature as authoritative, and to subject it to validation throughout the HRIA research project. To do otherwise, would distort the understanding of the issues, and would be tantamount to rejecting any knowledge gleaned from the Canatuan experience, especially considering that TVI was expanding to other sites. The role of the extended fieldwork in investigating this highly politicized issue was useful since this allowed for a more nuanced approach to the report.

7.3.3.4 Defined Scope of Community

What comprised “community” in this community-based HRIA? The community was heterogenous, with different narratives and perspectives, and possible conflicts and alliances in relation to mining. This drew attention to the horizontal relations and complexities involved in the project; complexities that insights from long extended fieldworks would have been able to unravel, but were not complications envisioned by the initial HRIA methodology. For instance, homogenizing the different groups of Indigenous Subanons would lose the unique experiences of migrant Subanons who had relocated to Canatuan from other traditional territories and municipalities. The company used its presence to establish its social acceptability, when the original Subanons in the area were contesting its legitimacy. Due to the mining, family members and relatives were divided. The tribal chieftain’s older brother had issued a statement, which was signed with his thumb, stating in English that his younger brother was not Canatuan’s legitimate traditional leader.²⁴⁴ There were also migrant settlers, who were former small-scale miners that had become farmers in the course of the mining cycle.

²⁴⁴ The question ‘*Who is the rightful Subanon leader?*’ arose when the company working with the National Commission on Indigenous Peoples organized a Council of Elders. This scandalized Subanon traditional leaders in Zamboanga Peninsula since there was no such thing as Council of Elders in their customary laws and tradition. See Sanz, “Politics of Consent”, *supra* note 176 at 120-21.

Additionally, mining has environmental impacts on downstream communities. In the Philippines, environmental impact assessments follow a project-based approach and stakeholders are accordingly identified within this scope.²⁴⁵ The HRIA could go either way – by following a project-based scope they might exclude some stakeholders or they might expand in scope, which stresses the importance of locating multiple community voices that can speak about the foreign investment.

7.3.3.5 Timelines Selected

Assessment contexts change over time. Stakeholders may emerge, disappear or may not be considered at all as the mining life cycle progresses. As noted earlier, when R&D's methodology was initially released, TVI's consultants completed an HRIA using this methodology a month before the current project, and the results were never released.²⁴⁶ This had an impact on the research process. For instance, in the focus group discussions, key company informants were well rehearsed in their answers, sounding like company public relation representatives. Six months later, however, the same key informants became critical, and even disclosed their misgivings about the company. Former small-scale miners formed a farming association to maintain their hold on the land and/or to negotiate better compensation from the company. Choices concerning the assessment timeline thus affected the content of the material gathered, and the relevant roles of the informants.²⁴⁷

7.3.3.6 Summary

The HRIA methodology has stemmed from numerous decisions, shaped by various parties' positionality and power. For instance, the choices made about information gathering (e.g. survey or fieldwork) affected the content and type of the information gathered. Choices concerning who

²⁴⁵ The Department of Environment and Natural Resources (DENR), however, considers cumulative impacts. See Philippines, DENR, *Administrative Order*, No 30 (2003), online: <policy.denr.gov.ph/2003/dao2003-30.pdf>.

²⁴⁶ R&D, "HRIA", *supra* note 162 at 44.

²⁴⁷ TVI Pacific criticized the HRIA report, and pointed out that TVI's activities were a work-in-progress, and the company was making significant advances in the areas of human rights, health, education, security, employment, standard of living, culture, housing and freedom of association since the time of the study. See TVI Pacific Inc., News Release, "TVI Disappointed With Rights and Democracy Report" (30 May 2007) [TVI, "TVI Disappointed"], online: <tvipacific.com/news/News-Release-Details/2007/TVIDisappointedWithRightsDemocracyReport>.

was consulted as an informant and how the language of the HRIA was translated also shaped the data gathered. Another key choice involved addressing the motivations for informant participation. Other key choices were related to how the researcher approached the reliability of existing literature and knowledge, how the scope of community was defined and what timelines were selected for the assessment.

7.3.3.7 The HRIA's Legacy

The Philippine HRIA found that the mining investment had a negative impact on the Subanon's ability "to enjoy the human right to self-determination, to human security, to an adequate standard of living, to adequate housing, to work and to education."²⁴⁸ The HRIA assessed the foreign investment's impact on the human rights of Indigenous peoples, as well as non-Indigenous peoples living downstream. The report, however, focused more on Indigenous rights. The Research Coordinator, as an Indigenous rights advocate, positioned the report as an impact assessment on Indigenous rights, because, at that time, the UN Declaration of the Rights of Indigenous Peoples was adopted by the Human Rights Council and was awaiting adoption by the UN General Assembly.²⁴⁹ As a result, the report was packaged as "Mining a Sacred Mountain: Protecting the Human Rights of Indigenous Communities".²⁵⁰

The HRIA provided opportunities to access information from various parties (e.g. the company, Canadian embassy and government agencies). R&D had extended their assistance in conveying the objectives of the HRIA to concerned parties, including meeting with government

²⁴⁸ R&D, "HRIA", *supra* note 162 at 38.

²⁴⁹ The UN Human Rights Council adopted the Declaration in 2006, but the UN General Assembly decided to defer its adoption until 2007. See UNGAOR, 61 Sess, 107th Mtg, UN Doc A/RES/61/295 (2007) at 1.

²⁵⁰ See R&D, "HRIA", *supra* note 162 at 37-58.

agencies prior to its implementation. The company also participated in the HRIA process, knowing that its credibility and legitimacy were at stake.

After the 2005 hearing at the 38th Canadian Parliament's Subcommittee on Human Rights and International Development of the Standing Committee on Foreign Affairs and International Trade, TVI began to hire personnel with a human rights background. This was during the extraction stage, when the company began generating income. Thomson and Joyce have noted that budgetary allocations for forward-looking activities, including building community relations and other expenses incurred outside exploration, were considered "non-essential" until the project was already well underway.²⁵¹ In addition, junior mining companies were also "fundamentally results driven, strongly oriented to the venture capital markets, and thus focused on the technical aspects of a project."²⁵² In 2007, TVI's Vice President for Social Commitments asked for forgiveness from the Subanon tribe for the human rights violations that were committed by the company.²⁵³ Later on, TVI drafted a social commitment policy that looked to "promote transparency, responsible stewardship of the environment, the inalienable rights to life, dignity and sustainable development in [their] host communities", and used the United Nations Millennium Development Goals to identify specific community projects.²⁵⁴

²⁵¹ Ian Thomson, & Susan Joyce, "Changing Mineral Exploration Industry Approaches to Sustainability" in MD Doggett & JR Parry, eds, *Wealth Creation in the Minerals Industry: Integrating Science, Business, and Education* (Easton, Md: Cadmus Professional Communications, 2006) 149 at 158.

²⁵² *Ibid.*

²⁵³ Ellen Red, "TVI Executive Ask Forgiveness for Human Rights Violations Committed by the Company to the Subanon Tribe", *Inside Mindanao* (20 June 2007), online: <www.insidemindanao.com/j1.html>. It is also notable that in 2007 a lengthy fact-finding report was published by several UK-based organizations, and it included a foreword by British Member of Parliament, Clare Short. This report covered the TVI project in addition to other foreign mining projects in the Philippines. See Cathal Doyle, Clive Wicks & Frank Nally, *Mining in the Philippines: Concerns and Conflicts, Report of a Fact-finding Trip to the Philippines, July-August 2006* (Solihul: Columban Fathers, 2007), online: <www.piplinks.org/system/files/Mining+in+the+Philippines+-+Concerns+and+Conflicts.pdf>.

²⁵⁴ TVI Pacific Inc., "Social Principles", online: <www.tvipacific.com/corporate/social-principles>.

TVI conducted human rights training in 2006 for its security force; the force had committed various human rights abuses against local community members who opposed the company's mining operations.²⁵⁵ While this demonstrated the positive outcomes of the HRIA in the Philippines, the mining project was already in progress, which suggested the assessment only “focus[ed] on remedies, not prevention.”²⁵⁶ In fact, even at the height of the HRIA process in 2006, several human rights violations occurred that implicated the mining company, including the forced removal of the Galvez couple from the mining area,²⁵⁷ and the harassment of the anti-mining Indigenous Subanons and former small-scale miners at checkpoints.²⁵⁸

Using various qualitative techniques, the HRIA process generated new information. Community human rights abuse claims were verified, validated and consolidated with the new data. When R&D published the Philippine HRIA case findings, the company criticized its “flawed execution” due to an anti-mining research team and R&D's failure to honor commitment to a consultative process.²⁵⁹ The Philippine HRIA findings were later used to file a complaint against the company and the Philippine government at the UNCERD in 2007.²⁶⁰

²⁵⁵ Christian Aid, *supra* note 205 at 38.

²⁵⁶ Oxfam America, *supra* note 167 at 5. An HRIA has a better chance to influence decision-making when it is conducted at the onset of a project.

²⁵⁷ R&D, “HRIA”, *supra* note 162 at 51-52.

²⁵⁸ Interview of Edgardo Calida, Greg Canda & Small-Scale Miners by Penelope Sanz (April 2006).

²⁵⁹ TVI, “TVI Disappointed”, *supra* note 246.

²⁶⁰ Apu Manglang, *supra* note 210 (considered under the Committee's Early Warning Urgent Action procedure).

A further submission was made in 2009, discussing TVI in Canatuan. See Alternative Law Groups Inc. et al, “Philippines Indigenous Peoples ICERD Shadow Report for the Consolidated Fifteenth, Sixteenth, Seventeenth, Eighteenth, Nineteenth and Twentieth Philippine ICERD Periodic Reports” (Submission delivered to UNCERDOR, 73rd Sess, 28 August 2009) at 38, 50, 56-57, 73, 90. During the Committee's consideration of the report, a representative from the Commission on Human Rights of the Philippines spoke regarding TVI. She noted that in 2002 teams from the Commission had travelled to the region following “reports that a military group that was providing security for Toronto Ventures Incorporated had employed acts of intimidation and violence to quell opposition to the project.” Complaints were filed with the Commission, but ultimately the plaintiffs were unwilling to continue with the process. UNCERDOR, 75th Sess, 1957th Mtg, UN Doc CERD/C/SR.1957 (2010) at paras 21-23. See also Cathal M Doyle, “From Declaration to Implementation: The Experience of the Subanon in the Philippines with the Operationalization of the UN Declaration on the Rights of Indigenous Peoples” (2016) at 25, online: <<https://ila.vettoreweb.com/Storage/Download.aspx?DbStorageId=1311&StorageFileGuid=87724887-e02a-4632-afb9-529c7677334f>>. The Committee has yet to issue a final decision in this case.

The HRIA process informed several communities in the Zamboanga Peninsula where the company was staking its claim. As expected, new vocabularies were developed in the communities as a result of the human rights and paralegal training that the consortium conducted (e.g. on filing affidavits of abuses in the community). However, the consortium's common agenda to resist TVI and/or to stop mining operations was unsuccessful. In 2004, the members had already recognized that their goal of stopping the company's operation was unlikely to be successful. Nevertheless, the community actors persevered and continued to oppose the mining operation because of the high risk to their land and livelihood.

Towards the end of the company's oxide gossan mines, the indigenous Subanon leaders, key supporters of the Philippines anti-mining protest movement, made a deal with the company to protect the rest of their ancestral domain.¹⁶⁵ The Subanon's court petition to cancel TVI's mineral production sharing agreement was thus rendered moot. Beginning in 2010, TVI showcased the indigenous Subanons of Canatuan as a successful corporate social responsibility effort in the Philippine mining industry.²⁶¹ In 2011, TVI admitted its wrongdoings and submitted to the Subanon's tribal justice and cleansing ritual.²⁶²

Introducing the HRIA as a tool for evaluating foreign direct investment in the Philippines would have been a useful policy approach to protecting human rights, especially in response to the

²⁶¹ TVI Resource Development Philippines Inc., News Release, "Timuoy Alog Leads IP Sector in Thanking President Arroyo for Promoting Responsible Mining" (10 June 2010), online: <tvird.com.ph/timuoy-Alog-leads-ip-sector-in-thanking-president-arroyo-for-promoting-responsible-mining/>. See also TVI Pacific Inc., News Release, "In Pursuit of Profitability and Sustainability", (5 July 2010), online: <www.tvipacific.com/news/News-Release-Details/2010/Pursuit_of_Profitability__Sustainability>.

²⁶² The ritual called *Gompia nog Bonwa sog Konotuan* was for spiritual cleansing of the company's violations against the Subanons. It was meant to restore harmonious relationships, for the violator to change its ways and for the victim to extend forgiveness. The Subanon leaders clarified that it does not absolve the violators from all other responsibilities that resulted in personal or physical damages. Gukom, *supra* note 262.

culture of impunity that exists in the Philippines.²⁶³ However, after the Philippine HRIA report was published in 2007, the relationship between the consortium and R&D was not maintained. The Canadian Parliament dissolved R&D in 2012, ending an organization that had been in operation since 1988.²⁶⁴

7.4 Discussion

An HRIA, similar to the human rights regime it is a part of, is a political construct, necessarily calling for “disciplined partiality”²⁶⁵ in its execution. To accomplish this, aside from respecting the rights of all parties, both the powerful and the powerless, one must be rigorous in reflecting and reporting the micropolitics and interactional ethics of such an assessment.²⁶⁶ Promoting this high level of scrutiny and evaluation of an HRIA will contribute to standardizing this type of practice in the field.²⁶⁷ It also clarifies the social, moral, and political processes upon which an HRIA is conducted.

Acknowledgement of an HRIA’s political nature, including its role in policy-making and the power dynamics among actors, is one step toward finessing the role of HRIAs in human rights promotion and protection. This acknowledgement is useful, for instance, in deepening an understanding of the types of HRIAs in existence (e.g. HRIAs can be classified according to what is being assessed and at which actor is encouraging the assessment), as well as the divergent uses and goals of different assessments.

Neglecting to acknowledge the politics of an HRIA, including its possible origins and forms, may put an HRIA into a role that it is ill-suited to fill, such as the role of an independent

²⁶³ See generally *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Philip Alston*, UNGAOR, 8th Sess, Supp No 2, UN Doc A/HRC/8/3/Add.2 (2008) 1. This report offers a description of the impunity to kill that is afforded to both state and non-state actors in the Philippines.

²⁶⁴ Mills, *supra* note 161.

²⁶⁵ Ignatieff, *supra* note 109 at 10.

²⁶⁶ Harrison, *supra* note 116 at 111-12.

²⁶⁷ *Ibid.*

court, tasked with adjudication, allocating liability and remedies or upholding the rule of law. HRIAs have a semi-legal dimension because human rights themselves are legal standards. In addition, an assessor determines how legal principles apply to the facts on the ground, referencing international and domestic human rights law. The HRIA process informed several communities in the Zamboanga Peninsula, where the company was staking its claim. As expected, new vocabularies were developed in the communities as a result of the human rights and paralegal training that the consortium conducted (e.g. on filing affidavits of abuses in the community). However, the consortium's common agenda to resist TVI and/or to stop mining operations was unsuccessful. In 2004, the members had already recognized that their goal of stopping the company's operation was unlikely to be successful. Nevertheless, the community actors persevered and continued to oppose the mining operation because of the high risk to their land and livelihood.

Towards the end of the company's oxide gossan mines, the Indigenous Subanon leaders, key supporters of the Philippines anti-mining protest movement, made a deal with the company to protect the rest of their ancestral domain.²⁶⁸ The Subanon's court petition to cancel TVI's mineral production sharing agreement was thus rendered moot. Beginning in 2010, TVI showcased the Indigenous Subanons of Canatuan as a successful corporate social responsibility effort in the Philippine. Despite this, an HRIA is not a judicial determination. A human rights impact assessor has no power to compel evidence or witnesses, nor does the assessor have security of tenure. Indeed Matthias Sant'Ana has noted that judicial adjudication is incompatible and flawed as an

²⁶⁸ See TVI Resource Development Philippines Inc., "Tribal Leaders Reconcile the Past, Unite for the Future", (2 September. 2009), online: <tvird.com.ph/tribal-leaders-reconcile-the-past-unite-for-the-future/>. See also Gulang Gukom, Press Release, "TVIRDI Admits Fault and Performs Cleansing Ritual in Canatuan" (18 May 2011), online: <www.minesandcommunities.org/article.php?a=10917>.

HRIA methodology.²⁶⁹ Considering its political character, the appropriate use of an HRIA may relate chiefly to stakeholder dialogue and public awareness in respect to policy-making. However, further work remains to be completed in this area.

Whether or not an HRIA is community-led, or enterprise-led (such as to fulfill due diligence requirements under the UNGPs), the HRIA will still be political. The actual positionality of a business enterprise in deciding to pursue an HRIA will differ from that of a community organization. In this case study, the HRIA proponents' agendas involve stopping the project and/or changing the company's conduct with respect to its investment. An enterprise's positionality in pursuing an HRIA to fulfill its UNGP due diligence will likely relate to either (1) the desire to secure a social license to operate or (2) reduction of liability risk.²⁷⁰ Under Canadian law, an HRIA is not required for overseas investments, including a company's eligibility for Export Development Canada support or other government agency assistance.²⁷¹ Therefore, a regulatory requirement to perform an HRIA will likely not cause a company to pursue such an assessment.

The first factor that could motivate a company to pursue an HRIA is an enterprise's social license to operate. The "court of public opinion", as Sally Wheeler examines, is a driver for human rights policies in a company and conducting an HRIA falls within this vein.²⁷² The implementation

²⁶⁹ Sant'Ana, *supra* note 98 at 248. Addressing the systemic societal effects of foreign mining on indigenous land rights is arguably not suited to the gradual resolution that is offered by HRIAs. See e.g. William Holden, Kathleen Nadeau & R Daniel Jacobson, "Exemplifying Accumulation by Dispossession: Mining and Indigenous Peoples in the Philippines" (2011) 93:2 *Geografiska Annaler* 141 at 154-55.

²⁷⁰ *Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises*, UNGAOR, 11th Sess, UN Doc A/HRC/11/13 (2009) 1 at para 46 (provides a discussion on social licence); "Guiding Principles", *supra* note 115 at 17 (provides a discussion about liability risk). See also *Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises*, John Ruggie, UNGAOR, 8th Sess, UN Doc A/HRC/8/5 (2008) 1 at para 73: "[t]he corporate responsibility to respect human rights includes avoiding complicity. The concept has legal and non-legal pedigrees, and the implications of both are important for companies ... Due diligence can help a company avoid complicity."

²⁷¹ *Export Development Act* RSC 1985, c E-20.

²⁷² "Global Production, CSR and Human Rights: The Courts of Public Opinion and the Social Licence to Operate" (2015) 19:6 *Intl JHR* 757 at 765: "Ruggie is pushing the CSR model much further than this by suggesting that what

of an HRIA is likely related to a company's desire to manage its image and its relations with stakeholders and shareholders. Therefore, it is important that companies follow emerging standards to ensure a meaningful HRIA, because if not, the assessment may evolve into a sheer marketing strategy.²⁷³ It is also important to commission an assessor who wants to be perceived as an individual governed by rigorous assessment standards. Similarly, an assessment should focus on adverse human rights impacts, instead of corporate social responsibility, since pursuing the latter could turn an HRIA into a public relations document.²⁷⁴

Historically, in Canada, a reduction in liability risk has not pushed companies to pursue HRIAs for their overseas investments. There are multiple barriers to finding corporate liability for negative human rights impacts abroad. There are issues relating to the plaintiffs' lack of resources, logistics and inability to pay for a lawyer. There are issues of private international law in Canada; where, if a tort is committed outside of Canada, Canadian courts will often lack a real and substantial connection to the litigation to adjudicate, unless a jurisdiction of necessity is found.²⁷⁵ Even if a claim relates to actions in Canada or if a claim is directly against a Canadian defendant, a court still has the discretion to dismiss the case according to the doctrine of *forum non conveniens*.²⁷⁶ There will also be the insulating effect of the corporate veil, which holds that,

will hold the balance between respect for human rights and corporate indifference is a social licence granted or revoked by the courts of public opinion in line with social expectations and norms."

²⁷³ See e.g. James Harrison, "Human Rights Measurement: Reflections on the Current Practice and Future Potential of Human Rights Impact Assessment" (2011) 3:1 J Human Rights Practice 162 at 171: "the multinational company Yahoo! is able to claim that they undertake HRIAs of their business while there are no public and accessible documents about the process or any completed assessments available."

²⁷⁴ Götzmann, "HRIA", *supra* note 117 at 98.

²⁷⁵ *Club Resorts Ltd. v Van Breda*, 2012 SCC 17 at para 90, [2012] 1 SCR 572 [*Van Breda*]. Saskatchewan, Nova Scotia and British Columbia govern adjudicative jurisdiction according to statute. See e.g. *The Court Jurisdiction and Proceedings Transfer Act*, SS 1997, c C-41.1, s 9, as amended by *The Miscellaneous Statutes (Bilingual) Amendment and Repeal Act*, SS 2009, c 4.

²⁷⁶ *Van Breda*, *supra* note 274 at para 103. It is notable that *forum non conveniens* is not available to European companies when they are sued in their home country, pursuant to EU Regulations. See EC, *Council Regulation (EC) 44/2001/EC of 22 December 2000 on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters*, [2001] OJ, L 12/1, art 2, online: <eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32001R0044>.

assuming subsidiaries are distinct legal persons, parent companies will generally not be liable for the conduct of their subsidiaries.²⁷⁷

Recent cases are moving in a new direction, however, that may make company personnel, shareholders and financiers reconsider past approaches to liability risk concerning operations abroad.²⁷⁸ Indeed, these recent civil cases are a remarkable development in Canadian law. In the past, Canadian courts have been reluctant to pursue lawsuits concerning corrupt corporate conduct abroad,²⁷⁹ and Canada does not have an *Alien Tort Claims Statute*, like the United States, to facilitate claims.²⁸⁰ In addition, while Canadian law can, in theory, provide a basis for criminal prosecutions of corporations and officers for serious human rights violations abroad, including those related to investments, this does not appear to have been applied to date.²⁸¹ Moreover, the rate of Canadian prosecutions under the *Corruption of Foreign Public Officials Act*²⁸² has been modest to date, with some recent improvements in

²⁷⁷ See e.g. Robin F Hansen, “Multinational Enterprise Pursuit of Minimized Liability: Law, International Business Theory and the Prestige Oil Spill” (2008) 26:2 BJIL 410 at 433.

²⁷⁸ See e.g. *Choc v Hudbay Mineral Inc.*, 2013 ONSC 1414, 116 OR (3d) 674 (allowed claims to proceed concerning gang rapes, a killing and a shooting, all allegedly committed by mine security personnel in Guatemala); *Araya v Nevsun Resources Ltd*, 2016 BCSC 1856, 408 D.L.R. (4th) 383 (permitted claims to proceed in concerning the construction of a mine in Eritrea that allegedly used forced labour); *Garcia v Tahoe Resources Inc.*, 2017 BCCA 39, 407 D.L.R. (4th) 651 (permitted claims to proceed concerning an alleged shooting by security personnel at a Guatemalan mine that injured seven people).

²⁷⁹ See e.g. *Recherches Internationales Québec c Cambior Inc.* [1998] QJ no 2554 (QL), REJB 1998-08013 (QCCS) (dismissed a claim concerning a tailings dam breach at a Guyanese mine which released cyanide and other heavy metals into a river relied on by thousands of people for drinking water); *Piedra v Copper Mesa Mining Corporation*, 2011 ONCA 191, 332 DLR (4th) 118 (dismissed a claim concerning violence and intimidation alleged by mine security personnel against local inhabitants in Ecuador); *Anvil Mining Ltd. c Association canadienne contre l'impunité*, 2012 QCCA 117, [2012] RJQ 153 (dismissed a claim concerning the alleged used of mining company equipment by the Congolese army during human rights abuses in 2004 due to a lack of jurisdictional connection to Québec).

²⁸⁰ *Alien Tort Claim Statute*, 28 USC § 1350 (1789).

²⁸¹ W Cory Wanless, “Corporate Liability for International Crimes under Canada's Crimes Against Humanity and War Crimes Act” (2009) 7:1 J Int Criminal Justice 201; Amissi Manirabona, *Entreprises multinationales et criminalité environnementale transnationale : Applicabilité du droit pénal canadien*, Cowansville, Yvon Blais, 2011.

²⁸² *Corruption of Foreign Public Officials*, SC 1998, c 34.

this area.²⁸³ The Canadian Parliament has hesitated to pass legislation involving mandatory processes relating to businesses operating abroad into Canadian law.²⁸⁴ Despite extensive consultations and hearings, including the *National Roundtables On CSR And The Canadian Extractive Industry In Developing Countries: Advisory Group Report* in 2006,²⁸⁵ Canadian legislation has remained largely static in this area in past years. Complaint processes have primarily relied on voluntary cooperation by businesses.²⁸⁶ There is no Canadian legislation comparable to the Transparency in Supply Chain Clause of the UK's *Modern Slavery Act*²⁸⁷, the 2014 EU Directive on non-financial reporting obligations²⁸⁸, nor France's recently passed *Corporate Duty of Vigilance Law*.²⁸⁹

²⁸³ Canada, OECD, Working Group on Bribery, *Canada: Follow-up to the Phase 3 Report & Recommendations* (Ottawa: WGB, May 2013), online: <oecd.org/daf/anti-bribery/CanadaP3writtenfollowupreportEN.pdf>.

²⁸⁴ See e.g. Bill C-300, *An Act Respecting Corporate Accountability for the Activities of Mining, Oil or Gas in Developing Countries*, 2nd & 3rd Sess, 40th Parl, 2009-2011 (defeated by the House of Commons 27 October 2010); Bill C-474, *An Act Respecting the Promotion of Financial Transparency, Improved Accountability and Long-Term Economic Sustainability Through the Public Reporting of Payments Made by Mining, Oil and Gas Corporations to Foreign Governments*, 2nd Sess, 41st Parl, 2015 (defeated by the House of Commons 9 April 2014); Bill C-584, *An Act Respecting the Corporate Social Responsibility Inherent in the Activities of Canadian Extractive Corporations in Developing Countries*, 2nd Sess, 41st Parl, 2015 (defeated by the House of Commons 1 October 2014).

²⁸⁵ Prospectors & Developers Association of Canada, "National Roundtables On CSR And The Canadian Extractive Industry In Developing Countries: Advisory Group Report" (Toronto: PDAC, 29 March 2007), online: <pdac.ca/docs/default-source/priorities/public-affairs/csr-national-roundtables-advisory-group-report1251d0089243442880e90c8679f762a6.pdf>.

²⁸⁶ Canada, Global Affairs Canada, "Reviewing Corporate Social Responsibility Practices" (Ottawa: Office of the Extractive Sector Corporate Social Responsibility Counsellor, 31 March 2017), online: <international.gc.ca/csr_counsellor-conseiller_rse/Reviewing_CSR_Practices-Examen_Pratiques_RSE.aspx>; Canada, Global Affairs Canada, "Canada's National Contact Point for the Organisation for Economic Co-operation and Development Guidelines for Multinational Enterprises" (Ottawa: GAC, 11 December 2017), online: <international.gc.ca/trade-agreements-accords-commerciaux/ncp-pcn/index.aspx>.

²⁸⁷ *Modern Slavery Act, 2015* (UK), c 30, s 54, online: <www.legislation.gov.uk/ukpga/2015/30/section/54/enacted>. This *Act* establishes mandatory reporting for some companies regarding their efforts to ensure that slavery is not present in company supply chains.

²⁸⁸ EC, *Commission Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 Amending Directive 2013/34/EU Regarding Disclosure of Non-Financial and Diversity Information by Certain Large Undertakings and Groups* [2014] OJ, L 330/1, online: <eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32014L0095> (companies are required to report on non-financial issues regardless of their materiality to shareholders' interests).

²⁸⁹ France, Assemblée nationale, "Proposition de Loi Relative au Devoir de Vigilance des Sociétés Mères et des Entreprises Donneuses D'ordre", *Compte rendu No 924* (1 February 2017) (President: Claude Bartolone) (adopté par le Assemblée nationale mais pas encore en force), online: <www.assemblee-nationale.fr/14/pdf/ta/ta0924.pdf>.

Motivated by social license or litigation risk, companies that commission HRIAs will do so in the context of a policy debate focused on how and if an investment should proceed. Under a legally binding fiduciary duty in Canada, the company's directors' duties subsume stakeholders' interests within the overall best interests of the corporation.²⁹⁰ Company commissioned HRIAs, similar to community-led HRIAs, will be subject to scrutiny by all parties on how interests and power have shaped the content of the HRIA. For this scrutiny to be performed, there must be a high level of disclosure about how the HRIA was completed, including critical details concerning decision-making, hierarchy and methodology.

It is contended here that the value of an HRIA in improving human rights performance will likely increase by bringing clear and reliable information to be discussed and responded to by all parties. The extent to which an HRIA can provide this information, notwithstanding its political nature, is one possible contribution to improving the impact of business enterprises on human rights, consistent with UNGP business obligations. For reliable information to be provided, emerging principles concerning "meaningful"²⁹¹ HRIAs should be acknowledged and adhered to by the parties involved, notwithstanding their specific power levels and positionality *vis-à-vis* one another.

In other words, there is no magic in the words or title "Human Rights Impact Assessment" or in the descriptors of "independent" or "impartial." An HRIA is a document created by someone who is paid by someone else to do so. The paying party is someone with an interest in an investment

The law will oblige large companies based in France to implement a vigilance plan in their operations aimed at preventing human rights abuses and environmental damage.

²⁹⁰*BCE Inc. v 1976 Debentureholders*, 2008 SCC 69 at para 24, [2008] 3 SCR 560; Edward J Waitzer and Johnny Jaswal, "Peoples, BCE, and the Good Corporate 'Citizen'" (2009) 47:3 Osgoode Hall LJ 439 at 442: "[p]ut another way, BCE can be read as stating that the best interests of the corporation are the interests of those stakeholders that a particular board deems most worthy of protection, provided that due process is adhered to in the selection of which stakeholder interests to favour." See also Aaron Dhir, "Shareholder Engagement in the Embedded Business Corporation: Investment Activism, Human Rights, and TWAIL Discourse" (2012) 22:1 Business Ethics Q 99 (discusses the role of shareholders in driving the assessment of Goldcorp's Marlin Mine in Guatemala).

²⁹¹ See e.g. Götzmann, "HRIA", *supra* note 117.

scenario, regardless of whether they identify as a community ally, a stakeholder, a business enterprise or an investor. The paying party has objectives, power and an interest in shaping the investment in line with their position. This is not alleging bad faith; this is simply acknowledging that there are no neutral players in an investment scenario. Everyone has a particularized role. Even assessors have a particular role with their own specific positionality and interests.

When an HRIA is completed, its group of diverse readers will likely ask: are the people whose rights that are being assessed the objects of the assessment (i.e. are they being objectified by an assessor), or are they the subject of the assessment (i.e. are they expressing themselves within the assessment)?²⁹² This may appear to be a seemingly illusory distinction, but there is a difference between an assessment that characterizes people and their rights as tasks to be completed; and one that facilitates rights-holders' self-expression on their own terms, such that their input and experiences are respected in shaping future policy.²⁹³

An HRIA is, at times, conducted in conditions where there are asymmetrical power relations among the parties, as well as a potential for violence and distrust. An HRIA is often completed in a scenario involving multiple power struggles and a diversity of opinions and histories. Navigating such waters is difficult; however, as contended here, those power differentials cannot and should not be ignored in HRIA practice. If power differentials were ignored, even where they dictate in favour of protecting human rights, the HRIA would risk being a mere instrument of power rather than a genuine tool to promote human rights.

²⁹² See Melish & Meidinger, *supra* note 242 at 332: “[c]ommunity members are conceived principally as ‘objects’ of potential abuse, not as ‘subjects’ of decision-making processes and impact assessments concerning activities that may affect their lives.”

²⁹³ Dhir, *supra* note 291 at 105. Dhir discusses the controversy surrounding the Marlin Mine HRIA, in which the assessment Steering Committee did not include any community representatives, leaving the community without direct input regarding the assessment timelines, scope, assessors or any other elements of the process.

For instance, an HRIA is a difficult document to develop, because one must gather and present information that is accurate, without implicating its sources in a way that compromises their security. Further, parties on all sides will want to distance themselves from parts of the completed report that are not favorable to them. Overall, many difficulties arise, but if the goal is gathering an accurate portrayal of events and conditions, the best that an assessor can do is gather the information and disclose *how* the report was produced. This approach will let all parties assess the report in the relevant context and foster dialogue and a sense of agency among all parties, while reducing the risk that particular parties will feel objectified and instrumentalized by the HRIA process.

The *how* of the report is thus just as important as the *what* of the report, since knowledge creation is a political process in itself.²⁹⁴ This article has identified numerous points where the power and positionality of the involved parties shaped the HRIA and its outcomes. To provide the reader of an HRIA with a more fulsome political context for the report, it is suggested that an HRIA be as explicit as possible in disclosing its origination and execution. For instance, it should disclose why the assessment was commissioned and how the assessor was chosen. Regarding methodology, the HRIA report should explain the specific choices made concerning how information was gathered (e.g. the fieldwork dates and types of interviews). The HRIA should explain choices on who was selected as informants and how translation into the local language was achieved. Other key discretionary choices that require disclosure include those related to addressing motivations for informant participation, the presumed reliability of existing literature and knowledge, the types of human rights considered, the defined scope of community and timelines for the assessment.

²⁹⁴ Cashmore et al, *supra* note 100 at 372-73.

Contemporary HRIA guides, such as those produced by the Danish Centre for Human Rights²⁹⁵ and NomoGaia²⁹⁶, address many of these topics, including the human rights to be assessed. It is beyond the scope of this article to comprehensively examine these methodologies. The central contention of this article is that, regardless of the formal methodology selected for an HRIA, the assessment should be explicit in the specific methodological choices made and how these choices shape that assessment.

7.5 Conclusion

In conclusion, this article has illustrated how actor positionality and power shaped the HRIA of a Philippine mining investment, including its methodology and overall outcomes. This argument was advanced through a qualitative examination of the political processes and products of an HRIA. The HRIA of the Philippine mining project was influenced by the involved parties' agendas and orientations throughout the project. These influences ranged from the selection of the assessor, the design and implementation of the methodology, to the follow-up actions selected. An ethnographical analysis was used to examine the political nature of this particular HRIA, and it is beyond the scope of this article to fully compare it to other HRIAs completed in different contexts. This article built on the political characteristics identified by Cashmore et al, and argued that in the implementation of an HRIA, knowledge is created *vis-à-vis* policy; knowledge based in the interrelated function of the surrounding politics and context.²⁹⁷

²⁹⁵ Nora Götzmann et al, *Human Rights Impact Assessment Guidance and Toolbox* (Copenhagen: The Danish Institute for Human Rights, 2016), online: <https://www.humanrights.dk/sites/humanrights.dk/files/media/dokumenter/business/hria_toolbox/hria_guidance_and_toolbox_final_may22016.pdf_223795_1_1.pdf>.

²⁹⁶ NomoGaia, *Human Rights Impact Assessment: A Toolkit for Practitioners Conducting Corporate HRIAs* (Denver: Nomogaia, 2012), online: <nomogaia.org/tools/>.

²⁹⁷ Cashmore, *supra* note 100 at 373.

CHAPTER 8

THE “IMPAK!” OF MINERAL LIBERALIZATION:

SUMMARY, CONCLUSION AND RECOMMENDATIONS

Three questions emerged during and from my research. These questions took shape out of the many conversations and interviews I had with different people and groups regarding “impak!” of mineral liberalization in their lives and communities. These questions, as I gradually articulated and formulated them, were:

- 1) What are the social, cultural, economic and political impacts of mineral liberalization policies in the actual large-scale mining by a foreign company?
- 2) What intracommunity conflicts are generated with the entry of large-scale mineral development in mining operations?
- 3) What are the outcomes of community actors and subgroups’ interactions with the mining project company and with each other?

In approaching these questions, I reframed the notion of impact in the context of risk society where there are hundreds of relative truths, and that knowledge and ignorance have become blurred (Beck, 1999, 2009). The term “impact” is typically associated with impact assessments, which are notably carried out with checklists, brief exploratory fieldwork, a timetable that fit corporate and government schedules, quantitative measures and simulations of consequences from the “high, hard ground overlooking a swamp”. Impact assessments are also

associated with the legitimation of scientific methods and supportive of governance structures that give approval to or regulate the implementation of extractive development projects. Through scientific tools projecting how the environment and communities are going to be affected, the effects of extractive development projects are assumed to also have corresponding solutions that could be generated to remedy adverse effects. This before-project assessment does not take into account that along the way there may well be consequences that are unrecognized, unacknowledged or even unprojected. Impact assessments are regarded as the penultimate requirement in the approval for the implementation of a development project. Once these impact assessments are approved, how the mining project actually affects the community and the national interests are less important unless there are catastrophic effects resulting from the operation of the project particularly in the Philippine context.

Rethinking impact, as unintended consequences in such contexts, was also a result of my engagements in the “swampy lowlands” where control over effects of action has become a complete modernist fiction (Latour, 2003). There I witnessed the consequences of mineral liberalization in operation as very dynamic, productive and shifting in both the short and long-term, and which can be classified in terms of intent (intended or unintended), recognition (recognized and unrecognized), acknowledgement (acknowledged or unacknowledged), and desirability (desirable, undesirable or neutral) (Sztompka, 2015). Rethinking impact as consequences of purposive actions of actors in such contexts broadened my inquiry into various scales. Recognition of different levels of scale, from the macro, meso, and micro-levels and vice versa, emerge in the use of the sociological imagination and an autoethnographic lens and its influences together. Such recognition allowed me to shift recursively among the various levels in examining the consequences of mineral liberalization.

In this concluding chapter, I present “impak!” This spelling captures how I heard the word pronounced and how the people with whom I have journeyed and collaborated in Subanon land spoke of impact. My presentation has two sections. The first section is devoted to synthesizing the development stages of “impak” took place in Canatuan. Then I will outline my findings and conclusions as responses to my three research questions. In the second section I reflect on the unintended consequences of conducting an ethnography of mining operations in the larger context of mineral liberalization wherein my *I*, as ethnographer, became *We*, the consequential autoethnographer, in her quest for authentic humanity and taking into mind the preferential option for the poor.

8.1 “Nobody Listened to Us”

In 2013, I got wind of Timouy Ben Alog’s video that was posted on YouTube about the ongoing concerns and request of the Subanos of Mt. Canatuan. I watched the almost five-minute video clip noting that it was done competently -- the rule of third, check; good natural lighting, check; neatly folded head dress and crisp Subanon garb, check. But I noticed that the background showed two cloths hanging on a clothesline, I wonder if they noticed them at all. Timouy Ben Alog looks healthy, stately, even at peace. I surmised that the short clip was made by TVI’s communications team. It has an accompanying English translation that was posted beneath the video and the title was written as “timuay” and not “timouy”, an error that both TVI’s personnel and NGO workers could easily make. I also wondered if the video was taken in Poduan or already in Canatuan.

Seeing the video brought me back to the sites of contestations. By 2013, three years had passed since I was in Zamboanga. I am certain that there were significant changes had already

taken place. For instance, in 2010 Timouy Ben Alog thanked former Philippines President Gloria Macapagal-Arroyo for promoting responsible mining during a nation-wide gathering of Indigenous Peoples (TVIRDP, 2010). In 2011, my friend Rodolfo “Rudy” Segovia, a former small-scale miner was killed by “a security guard hired by the Indigenous People’s administration of the Subanon ancestral land” (TVIRDP, 2011). In an email feed of TVI’s press release regarding the incident, Timouy Ben Alog was listed as reference to be contacted along with TVI’s communication team regarding the incident. In the past when there were human rights abuses or such incidents took place, Timouy Ben would be quoted condemning the violations. In 2012, Timouy Lodel Mandin, the Subanon tribal chieftain of Bayog who also participated in Mindanawon’s open conversations, was ambushed. He sustained a gunshot wound while his eldest son, Jordan, was killed.

In one of my last conversations with Timouy Ben, he confirmed that a house was being built in Canatuan for him. “Aron mabantayan ang TVI” (to keep a close eye on TVI),” he explained over the phone in 2010 as I updated him that I was still in Canada and would be continuing my studies. I also recalled my last conversation with Timouy Ben in September 2009 in which he spoke of planning to build a “simbahan” (church) where Mt. Canatuan used to be. I juxtaposed that conversation with what I heard him speaking in the video.

"They (Government) have low regard of us Subanon that's why even how hard we try, we complained everywhere about our refusal of our sacred site to be destroyed, the government did not listen and it allowed the destruction to happen. We did many different things. We did pickets. We filed legal cases and even reached the national level. Nobody listened to us. Now our sacred place in Canatuan is destroyed."²⁹⁸

²⁹⁸ The English quotation was provided in the video and is used here.

Once again, their frustrations and impotent anger became palpable to me. As I began to recall and reflect on the plight of the Subanos of Canatuan, I was left with more questions.

8.1.1 Subanon Agency and their Changing Contexts

As soon as I had recovered from pneumonia, sometime in November 2009, I went fielding in Zamboanga City. I was hoping to catch Timouy Boy, who, I had learned was confined to the hospital. But when I arrived, he was already on his way back to Canatuan. Because of my personal health concerns, I refrained from going to Canatuan and instead sought out Timouy Noel Lima, who was in Zamboanga City. I promised myself that later when I was a lot stronger and healthier, I would go and follow up on the consequences of Timouy Ben Alog and his group's decision to negotiate with TVI in Canatuan.

In August 2009, Timouy Boy was installed and proclaimed as the rightful and legitimate chieftain of Canatuan. I found it ironic that after the installation some members of the council of elders, who openly expressed their animosity towards me in 2004, had sought me out. They disclosed to me their perplexities about why they were suddenly sidelined, an action different from what they and TVI's executives had agreed on. Jolito and Lorna, sharing their thoughts about Timouy Ben's installations, had also expressed foreboding about what was to come (Field notes, August 30, 2009). At that very moment when Timouy Ben was installed, the sun came out, shining brightly. But just as suddenly, rain poured down, drenching the onlookers who were outside the new tribal hall in Poduan (Field notes, August 27, 2009). The sidelined council of elders saw this weather as a bad omen, while Alog's group viewed it auspiciously. At that point, I was aware that the TVI's Canatuan gold and silver mining project was already approaching the closure stage. Personally, I was also sensing my own closure and feeling I was already being

called somewhere else and needed to have some leave-takings. But I shrugged off this sense of moving on to focus on what was unfolding before me then.

From my perspective, the case of the Siocon Subanos in Canatuan is a microcosm of Mindanao's history of development that continues to unfold as new state development policies in mining are being implemented with intended benefits, anticipated costs, and unintended consequences to the community and the island at large. The Subanos are very hospitable to outsiders and are open to new developments that the latter bring with them. Based on their oral history, they are also, protective of their community, culture, and traditional territory and, thus, do not hesitate to resort to violence when dealing with threats and imposed dominating structures. Aside from the written accounts of the murder of the Spanish Jesuit priest Fr. Francisco Combes (1667), the Subanos' oral narratives show their significant history of fighting back to defend their land and communities.

In confronting threats to Mt. Canatuan and resource competition, the Subanos have adopted various strategies to exercise their agency vis-à-vis hegemonies and dominating structures. These threats and their courses of actions can be summarized in six phases, which also reflect the effects of development succession resulting in environmental degradation in Canatuan and its surrounding mountains.²⁹⁹ The first phase of development was the State's migration policy, which affected the Subanos' shifting cultivation that was integral to their culture and way of life (Frake, 1955, 1957). The policy dispossessed, discriminated against, and marginalized the Subanos, who, in response, moved further into the interiors. The second phase was logging, beginning in the 1960s and reaching its pinnacle in the 1980s. The

²⁹⁹ The concept of successive effects of degradation follows Odum's (1969) concept of ecological succession. In reverse, the Subanos environs have suffered an environmental degradation succession.

Subanos' responses to logging were varied. Some moved further up the mountains. Others worked for the company as guides. Logging helped clear the thick forests thereby lessening the intensive labor needed for the Subanos' slash-and-burn farming methods. It also opened the forest for easy mobility and trading for them. As guides, the Subanos were able to negotiate that Mt. Canatuan be spared from being logged over (F. Molay, personal communication, October 19, 2004). However, in 1989 the Siocon Subanos contested the logging concessions granted by the Philippine government to Great Pacific Timber and Development Corporation under the Integrated Forestry Management Agreement. They picketed for months at the regional office of the Department of Environment and Natural Resources in Zamboanga City until the agreement was rescinded.

The third phase of development started at the onset of artisanal mining when the Subanos allowed gold panners in the area. The Subanos had briefly engaged with a coal mining company in the 1970s (J. Alog, personal communication, August 30, 2009). Their permitting the coal mining company and the artisanal miners to engage in mining indicates that they are not opposed to mineral development as such. The Subanos only pan gold in the Canatuan Creek when it is needed for a ritual celebration. Gold itself is not part of their culture (O. Malang, personal communication, 3 February 2004), although it is for some Indigenous groups in Northern Philippines. From artisanal mining, small-scale mining developed with the result that tunnels were bored underneath Canatuan and giving rise to a population increase in the area. With its machinery and chemicals, small-scale mining adversely changed both the area's environment and the Subanos' way of life. They were threatened and harassed by small-scale miners, who not only outnumbered them but also had guns (L. Tala, personal communication, May 7, 2006). This hostile relationship, however, changed when TVI came to Canatuan (E. Calida, personal

communication, 5 May 2006). The fourth phase of development was large-scale mining, which divided the Subanon community in Canatuan. There were Subanos who supported the small-scale miners and large-scale mining, and those who were quietly pursuing their traditional way of life as horticulturists wanting to protect Mt. Canatuan. The Subanon traditional leadership, led by Juan Ben Alog, chose to ally itself with the small-scale miners, because of the reciprocity they had established in using the land and its resources. Further, while they had been opposed to each other at the start, they now had a common enemy in TVI. The mining company presented a grave threat to both groups because it meant that Mount Canatuan's land and resources on which they depended would be taken away from them and used solely for the company's benefit. The Subanos accepted the small-scale miners' assistance in using state instruments that would give them permanent tenure over their Indigenous land. Although they also filed court cases, they were never given any hearings (J. Alog, personal communication 6 Feb. 2004).

The fifth phase was characterized by the Subanos' engagements with international, national, and locally-based non-government organizations. Due to the small-scale miners' efforts, who had asked for help from the Roman Catholic church in their struggle against TVI, locally based NGOs were tapped and in turn contacted their national and international colleagues, networks, and donor agencies. They drew on their contacts in academe who could assist the AMGP Subanos in addressing the question, "Who are the real Subanos?" By this point, the Subanos' Indigenous governance in Canatuan had been greatly weakened, if not already rendered illegitimate, by the migrant Subanos, the State and the company. The Gukom sog Pito Kodolongan and the AMGP attempted to resolve these identity and legitimacy issues and the conflict in Canatuan through their traditional gukom system. But their initiative and traditional system of conflict resolution were ignored by both TVI and the pro-mining Subanos who now

led the SSAI (Sanz, 2007). By enlisting academe, the Gukom sog Pito Kodolongan and AMGP Subanos could draw on their oral history, and knowledge of customary laws, culture, place (*Siukun, Konotuan*), and genealogy to challenge the delegitimization efforts of the migrant Subanos, the State, and the company. When integrated with the findings of an academic's ethnography, extended fieldwork, and literature review (e.g. Jesuit letters), the Subanos constructed a counter-discourse that strongly established claims to their legitimacy in Canatuan.

In the sixth phase, the Subanos also collaborated with international NGOs, which obtained for them attention at the United Nations Working Group for Indigenous Populations, the Canadian Parliament, and the United Nations Committee on the Elimination of Racial Discrimination. By this phase, however, Mount Canatuan was rapidly being bulldozed and extraction of gold and silver was well underway. Towards the closure stage of TVI's Canatuan mining project, the Subanos made an agreement with the company in anticipation of its mining expansion that now covers the Subanos' ancestral domain.

8.1.2 Interconnected Consequences: Politics, Development and Economics

Having outlined the various responses the Siocon Subanos in Canatuan undertook to protect their sacred mountain, traditional life and culture, I turn now to discuss how their case demonstrates ways in which an Indigenous community was forced to accept and adapt to the implementation and consequences of a neoliberal development and policy, which underpins the Mining Act of 1995. Mineral liberalization may have produced some benefits, although typically temporary, to the community such as roads, jobs, medical clinic, scholarship and education, which are the measures of development defined by the Philippine State and mining industry. But the implementation and consequences of TVI's mining operations had adverse, even devastating, social, cultural, economic, and political impacts on communities in Mindanao, particularly on the Subanos.

The Canatuan case also demonstrates that the Philippine State's neocolonial and neoliberal ideology underpinning the state's mineral liberalization policy, is blind to Mindanao's long and troubled history of extractive development. Such blindness has and continues to cause adverse and often irreversible damage to Mindanao's physical environment and communities. The state's ahistorical, oversimplified conceptualization of Indigenous Peoples and community has once again ignored and disregarded Mindanao's historical context and cultural diversity by defining the Subanos as homogenous group. Such oversimplification has created complex patterns of inclusion and exclusion in Canatuan further reinforcing and deepening existing economic and social inequities. There have also been political factors at work at various levels, compounding the consequences that mineral liberalization would not only not bring the promised sustainable development to Mindanao and its communities, but would even further worsen the living conditions for the people of Mindanao.

8.1.2.1 Consequences to Indigenous Political and Governance System

In my curiosity and uncertainty about how the Subanos viewed their arrangements, particularly with their new alliance with TVI, I asked the Gulang Gukom Noel Lima for his assessment on how they got to where they were at in making such agreement. He began by telling me that he has a lot to say about Canatuan and the Apu Manglang Glupa Pusaka. "From the very start the Gukom and AMGP are one in opposing mining," he said. "The Gukom started to participate in their struggle beginning 2001 because it is very important that the traditional leaders in the seven rivers should be recognized especially Timouy Boy" (N. Lima, personal communication, November 9, 2009).

"However, despite the Subanos' opposition to mining, TVI continued with its operations," Timouy Lima replied. "The National Commission on Indigenous Peoples (NCIP) did not promote our rights. Instead of recognizing Alog as the legitimate traditional leader in

Canatuan, NCIP established a council of elders. They were not ancestral domain claimants or traditional leaders, but they were the ones who consented to TVI's mining operations in Canatuan" (N. Lima, personal communication, November 9, 2009). The Gukom of the Seven Rivers asserted that the traditional leaders in Canatuan should be recognized.

With their new alliance now with TVI, the Gulang Gukom was cognizant of their NGO partners' negative reactions. "We still recognize them as partners including Tebtebba. In one way or another, they were a big help even from the start. Our cause has reached the top level. If it were only us, it would not have happened because we don't have money," Timouy Lima clarified. Through their NGO partners, the Subanos' opposition had reached the United Nations Working Group for Indigenous Populations. "Busa dako ang pag-ila namo sa ila" (That is why we highly regard our NGO partners), as he specifically named the UK-based Piplinks, Catholic Assistance for Overseas Development (CAFOD), and Philippines-based Tebtebba and individuals, who worked closely with them.

"However, we also have a lot of frustrations," Timouy Lima explained. "Although the NGOs have helped us in terms of campaigning against mining, they did little in addressing the needs of Ben Alog and the economic hardship among the Subanos in Canatuan," he continued. They have not provided any livelihood or helped address the needs of the victims of mining, especially those who were displaced as we have expected." He clarified that CAFOD did its part.

"Expectations namo while mag-anti-mining unta they will also look after kining pigbogolalal ni boy who are displaced. Wala na nila matubag. While they are spending millions in the campaign sa mining, they did not look after sa panginabuhì ni Alog" [We expected that while we campaign against mining, the NGOs will also look after Ben Alog's people who were

displaced. They did not address that. While they are spending millions for the campaign against mining, they did not look after Alog's livelihood], Timouy Lima disclosed.

"Now they criticized Boy, who is now recognized as Canatuan's traditional leader because he made an agreement with TVI. They (the NGOs) all criticized us," disclosed Timouy Lima as he explained the reasons why the Subanos negotiated with TVI.

The Gukom's purposive action was all directed towards the recognition of Ben Alog as the legitimate traditional leader of Canatuan. "We have experienced 10 years of struggle with TVI and we were not successful in stopping its operations," stated Timouy Lima, the Gulang Gukom of the Seven Rivers. "Boy was not recognized as the legitimate chieftain and his people as the sole ancestral domain claimants and traditional leaders in Canatuan. First among those who delegitimized him was NCIP. TVI did the consultation process believing that it was the council of elders, who were supposed to be consulted. Boy was the rightful person to give the consent. But because he opposed TVI's mining project, he was not consulted. That was the reason why the sacred mountain was destroyed."

"The Gukom kept on asserting that Boy's leadership should be recognized," Timouy Lima recounted. The Gukom made a personal presentation to NCIP in January 20, 2009 along with other Subanon chieftains namely, Ben Alog, Ferding Molay, and Lando Tala. "The spokesperson is Lima in NCIP," Timouy Lima narrated in Bisaya. "I made an attempt on which I am successful to reconcile Alog and the COE. The reconciliation process is for Alog and the council of elders to accept Alog's leadership over the ancestral domain. They (the COE) can't do anything because I used my own traditional process, and this was on August 27, 2009. It is not the work of TVI, but the Gukom's to reconcile the people in Canatuan. This was achieved when I pronounced that Timouy Boy is the traditional leader of Canatuan."

The real objective here was for Timouy Alog to have full control over his domain. The Gulang Gukom narrated how he, too, had to defend his territory.

During the MNLF years from 1972-1982.... Out of 28 barangays only 2 barangays were not captured. The municipal government was run over for 11 months, and was governed by the MNLF, except Lintangan and Malayal (which are Subanon areas). I'm saying this to show how I defended it. I was the operations officer. We were armed by (the Philippine Military's) Southcom (Southern Command).

Why am I serious in this matter? Canatuan was declared as sacred mountain. We protected it over the years. I am the direct successor of Timuay Manglang. We still have to defend it even if the mountain is not there anymore. The ancestral domain is the place of Manglang and his descendants. This is where the Subanos are making a living.

Because the Gukom and AMGP have no way of preventing mining because of the mineral production sharing agreement granted by the government. We cannot rebel against the government.... It was the Philippine Government which issued the mining permit to the company. What Alog did is to recognize the 508 hectares covered by the MPSA because it was already destroyed. The sacred mountain is totally destroyed. It was open cut by the mining company.

If we are not going to do that (negotiate with TVI), the rest of the 8,000 hectares (of the Subanos ancestral domain in Canatuan) will be mined. Boy can now defend his ancestral domain.

The Gulang Gukom clarified that it was not about the Indigenous peoples' royalty. Negotiating with TVI was all about defending their ancestral domain. That provision (referring to the IP royalty in the Philippines' mining act) is not in the Subanon customary law or in our culture, said Timouy Lima. It was the Philippine Government who stipulated the minimum of one percent from the gross income. "If Boy is not recognized and be consulted, who then is going to be consulted? It will be the council of elders. If it is them (the COE) who will give the consent, the whole ancestral domain will be mined. They are not part of the ancestral domain, they are not the original claimants," Timouy Lima said.

The Gulang Gukom was also circumspect in recalling their collaboration with the NGOs. In 2008, the Subanos trooped into NCIP's regional office in Pagadian. Timouy Lima disclosed that he found it ironic that they went to see NCIP's regional director, who was the same person who created the COE, and they were asking him to recognize Ben Alog as Canatuan's legitimate chieftain (N. Lima, personal communication, November 9, 2009). The mobilization was the idea of NGOs, which paid for their expenses in going there, he said. As he had expected, no action was taken at the regional level because it will shame NCIP. Then, they proceeded to NCIP's national office (N. Lima, personal communication, November 9, 2009).

Timouy Lima was mindful that with the help of the NGOs, they were able to go to the Canadian Parliament. "I was one of the four (who went)," he narrated. "The objective is (sic) to ask the Parliament to pull out TVI from Canatuan knowing that it was owned by a Canadian Citizen. We believed that the Government of Canada will have an authority to pull out its citizens from Canatuan. That is our belief. We appealed to them because it has done destruction. We asked them to please help us. There are people displaced. The mountain is on its way to destruction."

But a member of the Canadian Parliament, who headed the sub-committee hearings on international trade, clarified to the Subanos that although TVI is owned by a Canadian citizen, the Canadian government has no authority to stop TVI because they are granted permission by the Philippine Government to mine in your land. Timouy Lima recounted that the Canadian Parliament member told them that Canada respects the sovereignty of the Philippines. The Canadian Government has no right to interfere with the Philippine Government's policy.

“By that comment,” Timouy Lima disclosed, “that we IPs are nothing. We will not be able to drive TVI away....The ancestral domain will be finished. This is our belief,” he said in frustration that the legal provisions on the Indigenous peoples’ FPIC is useless.

The Subanos’ intention in negotiating with TVI was to defend their ancestral domain. Timouy Lima noted that while there was no expansion (referring to TVI’s mining claim that covered the rest of the Subanos’ ancestral domain) yet, Timouy Ben Alog should be placed in a position where he is able to defend their ancestral domain in Canatuan. In 2009, the Subanos also felt threatened by the Philippine Government’s impending memorandum of agreement with the Moro Islamic Liberation Front’s claim in relation to the ancestral domain. The MILF might claim the Subanos’ ancestral domain in the same way they had attempted to do so in the 1970s when it over ran the Province of Sibuco.

However, not all chieftains in the Gukom of the Seven Rivers were in agreement with this strategy. Timouy Lima acknowledge that two chieftains have argued that “even if you are not a Timouy, you can defend the ancestral domain”, (N. Lima, personal communication, November 9, 2009).

The Gulang Gukom had assessed that the Subanos had lost immensely, especially that their sacred mountain had now been destroyed, and that the wrong people were the ones receiving the mining royalty. Yet, the Philippine Government continued to assert that TVI’s mining operation is legal in direct contrast to the Subanos’ perspective that it is “absolutely illegal” (N. Lima, personal communication, March 24, 2009). Nevertheless, Timouy Lima’s assessment summed up the impact of TVI’s mining operation as resulting in adverse social, cultural, environmental, economic, and political effects on communities in Mindanao, particularly on the Subanos in Sitio Canatuan. The neoliberal policy underlying the

Philippine State's new mining act prioritized profit over the people, their culture, and their environment, rendering the Subanos' notion of development irrelevant.

For the Gulang Gukom and his people, the path of development is through agriculture and permanent livelihood. "There is self-sufficiency through agricultural development, not mining. *Dili gubaon ang yuta* [Land should not be destroyed]. There is [*sic*] about seven thousand plus hectares [of ancestral domain] and we want to develop that" (N. Lima, personal communication, 11 November 2009). He notes that the Subanos need assistance in strengthening their livelihood. He emphasizes that "We have a cultural system *nga lahi* [different]. *Mabuhi mi sa pagtanum mao dili mi gusto maguba ang ancestral domain* [We can survive through agriculture. That is why we don't want our ancestral domain to be destroyed. We are willing to accept trainings for livelihood]" (N. Lima, personal communication, November 11, 2009)

Due to larger globalization processes and the specific Philippines' mineral liberalization policy, the Subanos were forced to adapt to neoliberalism and its development agenda. When I asked what made the Apu Manglang G'lupa Pusaka(AMGP) Subanos decide to take up the company's offer, the Gulang Gukom explained:

"Dili ang royalty ang gi-apas sa AMGP kundi ang pagdipensa sa ancestral domain. Kung dili marecognize si Ben nga siya ang konsultahon, kinsa konsultahon? Ang CoE. Ang CoE ang naghatag ug consent. Mahurot sila ug mina. Wala silay labot diha. Unsa kalabutan ni Polong ug Talpisao, they are not original claimants" [The AMGP is not after the mining royalty. It is after defending their ancestral domain. If Juan Ben Alog is not recognized to be the legitimate traditional leader to be consulted, who then should be consulted? The CoE gave the consent for the company to operate. It would mean [if they remain to be the recognized leaders] the ancestral domain in Canatuan will be finished by mining. The CoE do not belong to the original Subanon community there. What do Polong or Tampisao know? They are not original claimants.] (N. Lima, personal communication, 11 November 2009).

8.1.2.2 Political Deals and Reclaiming Indigenous Governance System

In 2011, I received a newsfeed that TVI submitted itself to a “spiritual cleansing ritual and act of offering reconciliation to the people of Canatuan and their ancestors” (Gulang Gukom, 2011). TVI also admitted its misconduct in violating Subanon customs and traditions that “resulted to destructions [*sic*] in the ancestral domain and chaos of the community in Canatuan” (Gulang Gukom, 2011). “So, it is done,” I said to myself. That newsfeed prompted me to leaf through my field journal. There I had written: “Just as when TVI’s mining project was nearing its closure and a call for post-rehabilitation stage about to begin, the Council of Elders...hugged the rightful leader, Timuoy Juan Ben Alog, who they maligned and discredited as a *bolyan* [shaman], and who in 2004 had to flee Canatuan for fear of his life” (Field notes, 27 August 2009).

So much water has gone under the bridge, I thought to myself. Like most Filipinos, the Subanos are also quick to forgive and forget. Where in the world can you actually find the wife and daughter of a dictator, whom the nation had ousted in 1986, who would still be able to come back to the Philippines and be elected to office?

In 2007, the Gulang Gukom Noel Lima had communicated to TVIRD’s president that the company was going to be put on trial under the Subanon gukom system for desecrating Mt. Canatuan under the Subanos’ customary laws and judicial system (N. Lima, personal communication, 1 August 2007). TVI ignored the process then, which further strengthened the AMGP and Gukom sog Pito Kodolongan’s resolve to submit a complaint to UNCERD, an action taken in October 2007. Although such a complaint opened the company to legal litigation, the compromise between TVI and the AMGP had discounted such possibility. After all that was said (e.g. company statements negating claims that the mountain is sacred and that Alog is not

legitimate) and done (e.g. harassments, assaults, food blockade) against the Subanon community in Canatuan, the AMGP and the Gukom sog Pito Kodolongan seemed to have forgiven the company and now identified the Government as the main culprit: “TVI recognized and secured the consent to mine sacred Mt. Canatuan from the CoE [Council of Elders] on the grounds that NCIP [National Commission on Indigenous Peoples] told them to do so” (Alog, as cited in Gulang Gukom, 2011). On the other hand, Gulang Gukom Noel Lima (2011) stated that the *boklug* ritual only cleansed the spiritual aspects of the company’s violations. He also clarified that it does not absolve the violator from all other responsibilities resulting in personal or physical damages. The *boklug* instructs the violators to change their ways and work for the restoration of harmonious relationship, and it encourages the victim to forgive the violators (Gulang Gukom, 2011).

From my perspective, there were several factors which explain to why TVI and the AMGP Subanos needed to make a deal. Due to the Subanos’ complaint at the United Nations in 2007, the company was pressured to maintain its reputation as a “responsible miner” in the Philippines and globally. It also had to heed the UNCERD’s request for clarification and further information from the Philippine State and the company regarding the situation of the community and the Subanon of Mt. Canatuan. TVI argued in its letter to UNCERD that the Subanos’ claim that Canatuan is a sacred mountain is “an *ex post facto* political construct . . . devoid of any Subanon archaeological or cultural materials; there was no evidence found of any historic or prehistoric religious practice, at any time...” (Mateo, 2008). Also TVI regarded Juan Ben Alog as “a leader repudiated by the majority in the Subanon community,” who was “used repeatedly as a figurehead for a campaign being waged for some time by external, non-Subanon, political groups both national and international, opposed to mining in general, to stop mining operations in the Philippines and in Canatuan” (Mateo, 2008).

However, the historical case—based on myths, rituals, beliefs, practices, and customs—is that Mount Canatuan has been and is integral to the Subanos way of life, culture, and identity. To the Subanos Mount Canatuan is sacred—an eternal present. As indicated in the genealogy chart that was validated and verified by other chieftains that belong to the Gukom sog Pito Kodolong, and the testimony of the elders in Canatuan and Siocon (Fieldnotes, 3-6 February 2004), Juan Ben Alog is of *timuoy* lineage and, thus, is Canatuan’s legitimate tribal chieftain. His legitimacy was “repudiated” with the capture of SSAI leadership and the invention of traditional leaders with the creation of the CoE in Canatuan (Sanz, 2007). Indigenous governance, which is non-corporate and centered on kinship, sacred knowledge, and status, tends to splinter into factions, primarily along kinship lines when it comes under significant external pressures.

For their part, the Subanos considered several factors before making a deal with TVI. The company and the CoE were already exploring the possibility of new memoranda of agreement (MoA) which would allow the company to develop another mining project within the AMGP’s ancestral domain. TVI saw significant long-term mining operations within its Canatuan tenements beyond the 508 hectares (TVI Pacific, 2009).³⁰⁰ The AMGP Subanos were also concerned about the on-going peace talks between the Government and the Moro Islamic Liberation Front, since a draft agreement initially presented did not recognize Indigenous traditional territories in several areas in Mindanao (J.B. Alog, personal communication, 30 August 2009; N. Lima, personal communication, 11 November 2009). However, at the heart of their decision to accede to the company’s proposal was their desire to protect their ancestral domain by gaining greater control in making decisions as to how to develop and manage their

³⁰⁰ The company has already explored at least 40 kilometers of the schist-formation stratigraphic horizon that hosts the Canatuan orebody. It was also considered that any mineable ore located in the area could be shipped to the existing Canatuan plant for processing (TVI Pacific, 2009).

resources. The AMGP Subanos also decided that the company was in a better position to help them form an ancestral domain sustainable development and protection plan (ADSDPP). As a state-prescribed development planning instrument, ADSDPP helps prepare Indigenous peoples to engage in a market economy and, at the same time, formalizes the existing land and resource management practices of Indigenous peoples (Environmental Science for Social Change, 2014). The ADSDPP is purported to aid Indigenous communities in sustainably managing and developing their lands and natural and human resources based both on their Indigenous knowledge systems and practices and on the principle of the right to self-determination (NCIP Administrative Order 1, 1998). The Philippine State's NCIP, acting as a third party, assists Indigenous communities during agreement negotiations to guarantee that Indigenous communities will not be disadvantaged. It must also ensure that at least 30% of all funds generated from resource utilization, extraction or development activities in the ancestral domain will be allocated to the Indigenous community for development projects or the provisions of social services or infrastructures as outlined in its ADSDPP.

However, under the CoE and SSAI leadership, which had signed the memorandum of agreement with TVI, no ADSDPP was formulated for Canatuan, despite the royalties they received from the company beginning in 2005. The AMGP Subanos believe that, if they were going to be recognized as the legitimate traditional leaders, they would have to create an ADSDPP. TVI had offered to fund the ADSDPP and allocate at least Php 1.7 million (Ca\$ 48,000.00) (N. Lima, personal communication, 11 November 2009). The AMGP Subanos also considered that, in all those years that they worked with the NGOs, which had been collectively referred to as Task Force Canatuan, no development took place in their ancestral domain. Based on my fieldwork, the Task Force recognized the need to partner with the

Subanos to provide socio-economic programs and sustainable agricultural development projects in Canatuan. However, this intention was barely put into action, if at all. Most members of the Task Force specialized in rights advocacy and oppositional politics rather in sustainable development initiatives.

With these considerations, the AMGP Subanos decided to make a deal with the company. For the Subanos, recognizing the rightful Subanon traditional leadership and restoring harmony and good relationships among the Subanos in Canatuan were of prime importance. They also believed that they would be in a better position to negotiate for an agreement that considers the environmental, social, and cultural trade-offs that they will go through with TVI's future mining projects in its Greater Canatuan tenements. Does this restoration of harmonious relationship and recognition of their rightful Indigenous governance system forecast an equitable mineral wealth distribution? Or does this new relationship promise to bring more avenues for "indigenization of social control" (Havemann, 1988), which assumes that self-determination is going to be achieved by providing Indigenous peoples forms of government that are linked with self-determination in a democratic state? These questions certainly comprise a future research agenda. But what is certain is that, through mineral liberalization, the Subanos' development perspective has been framed in neoliberal terms that mineral wealth will bring in sustainability and development.

8.1.2.3 Mineral Development and the *Other* Scales of Economy

In privileging mineral liberalization as the driver of economic growth, the Philippine State has produced adverse and devastating consequences to other scales of economy that are existing downstream of TVI's Canatuan mining project. It should be noted that Mt. Canatuan is part of the Siocon-Quipit, Taguite-Tumaga basins, which comprise the four major water basins situated at the southern part of Zamboanga Peninsula (Alcala et al., 2003). The Siocon

Watershed covers an area of 603 km², Quipit 633 km², Taguite 384 km², and Tumaga 228 km²; these areas are drained by the Vitali, Tumaga, Siocon, and Quipit Rivers respectively. The Siocon Watershed was declared a water resource reserve in 1989 (Presidential Executive Order No. 84) and a protected area in 1999.³⁰¹ Known as the Siocon Resource Reserve, it covers at least 980 hectares including its buffer zone. TVI's mining project is principally drained by the headwaters of Canatuan Creek in the east and Lumot Creek in the west. Both rivers meander downstream before they drain into the westerly flowing Lituban River and Siocon River, which finally empty into the Sulu Sea.

Declared watershed areas are intended to be “no go” zones for mineral extraction (Republic Act 7942 Sec.19f). But TVI's mine was allowed because it was considered to have a low impact. The company's feasibility study describes that “the planned disturbance involves less than 1% of the Siocon River Watershed; the impact will not be noticeable within the downstream reaches of the river system (Northwest, 2004, ES-17).” However, the watershed response and flood conditions were difficult to mitigate as the project was located near the head waters of Canatuan Creek and Lumot Creek, both tributaries of the Siocon River. Despite the feasibility study's predictions, the farming and fish-farming communities downstream soon noticed significant changes in their local environment such as heavy erosion and low water quality that eventually resulted in economic dislocation.

³⁰¹ Presidential Proclamation No. 84 was signed by President Joseph Ejercito Estrada pursuant to Republic Act No. 7586 (NIPAS Act of 1992).

Through a map (see Figure 8-1), the Siocon Farmers showed how Lumot and Canatuan Creek drains into the Lituban River, which joins the Siocon River down-stream and then traverses from the northwest going southwest of the Siocon poblacion. Along the Siocon and Lituban

Rivers are farming barangays that are repaying loans from the government-owned Development Bank of the Philippines. In 1976,

the bank gave the farmers a 20-year loan of Php 1.5 million to construct an irrigation system for their rice production. From 1996 to 2003, they were able to make their loan payments, which amounted to Php 600,000. However, after mineral extraction began in 2004, they had complained that, due to siltation that they believe was caused by the mining operations in Canatuan, *lapuk* (mud) frequently bogs down their irrigation system and that their farm lots are also often covered with mud. The communities along the Lituban River also complained of decreasing rice production.³⁰²

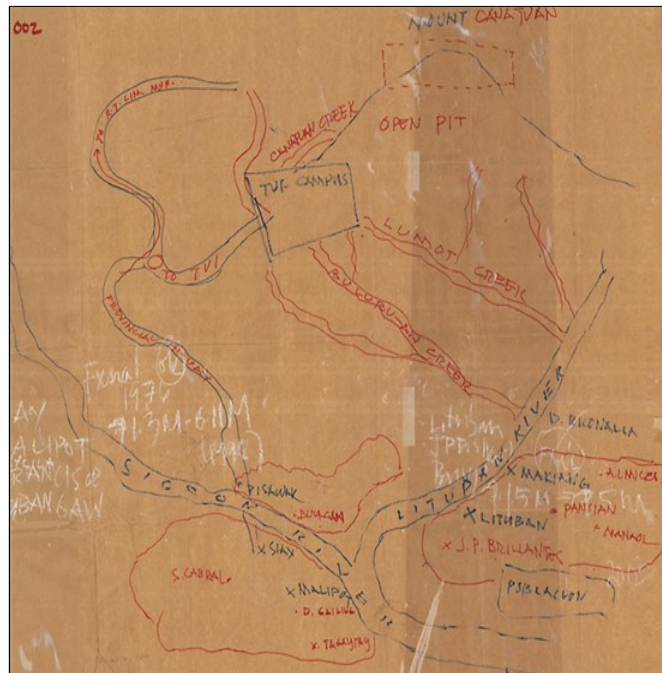


Figure 8-1. Map drawn by representatives of the Siocon Farmers Associations, which shows the river system and how mining in Canatuan that is part of the Siocon Watershed, affects their farmland downstream.

³⁰² The farming communities along the Siocon River are barangays Siay, Malipot, S. Cabral, D. Sailila, Pisawak, and Tagatay, which also obtained a loan of Php 1.3 million. No known water tributaries from Canatuan drain in Siocon River. Thus, between the two farming communities that are located in Lituban and Siocon Rivers, the latter is the least affected. TVI uses the communities along Siocon Rivers to show that mining does not affect agricultural production in Siocon.

Further downstream the river drains into three river pathways - to the Sulu Sea, the Latabon River, and the Manaol River. In the fish-farming barangays of Muol, Kalimaw, Malili, Manaol and Latabon along the Latabon and Manaol Rivers, several hundreds of hectares of fishpond raise *lukon* (prawns), *bangus* (milkfish), and *pantat* (mudfish) (see Figure 8-2). Fish farming began in Siocon Municipality in the 1970s. By 1990s, the fishponds, approximately 450 hectares of fishpond, were fully developed. In 1993, the fish farmers noted that farm inputs in a one-hectare fishpond, which include 10,000 pieces of fry (e.g. prawn or fish), fertilizers, lime, and feeds (yellow corn), cost about Php 15,000 and would yield each harvest on average of at least 200 kilos. Each fishpond had a gross income of approximately Php 50,000 per harvest. Between 1990 and 1999, fishpond owners harvested three times that amount each, which roughly generated at least Php

67,500,000.00 per year in the Siocon Municipality (Tio, 2007). In just three months, a prawn would weigh at least 65 to 80 gm., which they refer to as *jumbo size* (Interview with SFFA members, 2006).

By 1995, they recall that, while they were still able to have abundant harvests, they noticed some changes in the water quality particularly when they open their fences to bring in fresh water to their fishpond. They noticed that the water started to emit foul smell and made them itchy. This time coincides with the height of small-scale mining in Canatuan, which used

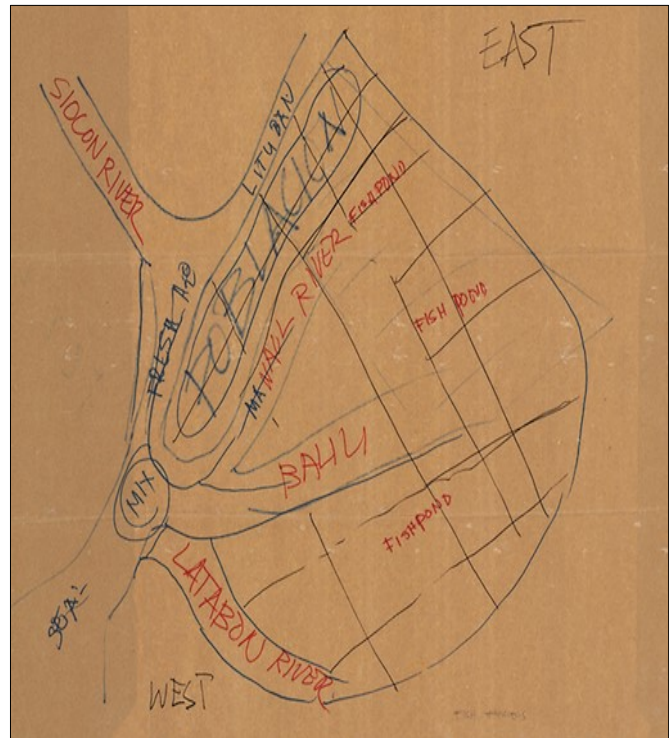


Figure 8-2. Map drawn by representatives of the Siocon Fish-Farmers association to show how mining in Canatuan impact their fishponds downstream in Siocon Municipality.

cyanide and mercury to extract gold from the ore. Rosendo Canlas, the president of Siocon's Fish Farmers Association, noted that, beginning in 1999, "*nagluya na ang income hangtud karon ... nagsugod na og patay-patay ang lukon*" (Our prawns started to die off and our production lessened resulting in lower income). This was after TVI suspended its operations due to a downturn in the price of gold, but still during the small-scale miners' gold operations. In 2002, the year that the DENR confiscated the small-scale miners' equipment at the Subanon leaders' request and TVI reactivated its processing plant, the fish farmers said that they had no harvest at all, which means that they had no income: "Daku kayo ang diperensya. Sa una maayo ang katigayon sa pangisda. Karon lahi na gyud. Patay ang lukon" (There's a big difference. Before, fish farming was very lucrative unlike today, when the prawns die.) (R. Canlas et al., personal communication, April 2006).

At present, the prawns weigh between 30 and 35 grams if they survive after three to four months (most fingerlings die after two months). As of 2006, Rosendo noted that "*swerte na kung maka-harvest og duha ka kahon. Usahay duha kilos lang*" (we are lucky if we are able to harvest at least two boxes. Sometimes, we can only harvest two kilos). Fish fingerlings are fragile and vulnerable to polluted waters. The fishpond operators resorted to using additional fertilizers hoping to increase the fingerlings' survival rate which constituted additional capital outlay (Tio, 2007). The fry sellers, who are the fishpond operators' sources of fingerlings and prawn fry, are also affected by the siltation, which reaches the coastlines of Siocon. They were finding that catching fry from the Siocon and Manaol Rivers through *sudsod*, a traditional fishing method using improvised net, had become increasingly difficult. This impelled the fish farmers to purchase fish fingerlings and prawn fry from other coastal municipalities (e.g. Sirawai, Mutia, Sindangan, Liloy). The fish farmers also tried a hatchery

but the fry continued to have low survival rates (Tio, 2007). They also noted that when they harvest mudfish, it was inedible since their bodies and scales are *damidj* (damaged) due to *nuka* (skin disease) (Field notes April 2004).³⁰³

As of 2007, Rosendo Canlas and some fishpond operators decided to stop raising milkfish and prawn. Canlas said that he has not recovered a peso in the last two years from his last capital outlay. Due to low production over the years, he and other fish farmers either sold or rented out their fishponds. He also has shifted to buying and selling fish and prawns to pay off his loans. The farmers, fishpond owners, and fry sellers have attributed the changes in their environment (siltation and degraded water quality) to mining. The Mines and Geosciences Bureau – Region IX (J. Soriano, personal communication, December 7, 2004), dismissed these complaints, saying that they (referring to protesters) always blame everything on the mining company.

However, as indicated in the company's gossan mining feasibility study, environmental issues associated with the project include "water quality degradation, alteration of the surface water and groundwater regimes, and disruption of terrestrial flora and fauna" (Norwest, 2004, 10-2). The study cites that possible sources of water degradation would include runoff from the sulphide ore and waste rock, the release of cyanide-contaminated waters from the mill process and tailings impoundment, and sedimentation due to surface water runoff and erosion. They also expected that watershed response and drainage patterns within the Canatuan Creek and Lumot Creek would be altered by the construction of the tailings pond waste rock dumps and diversion structures.

The massive amounts of siltation in their farmlands and fishponds are due to heavy erosion brought about by mining. While company press releases regularly attribute erosion to

³⁰³ See also DCMI (2005) report entitled Siocon Residents Contract Skin Disease from Polluted River.

the Subanos' slash-and-burn farming method,³⁰⁴ TVI's Canatuan mine project actually generated at least 2,200,000 tonnes of waste in its eight years of operating the gossan and sulphide mine.³⁰⁵ The company has extolled its siltation-control facilities (construction of diversion ditches and sediment ponds, and installation of wood barriers), waste-water treatment facilities, and initiated revegetation/reforestation efforts as part of the company's mitigating measures (Nelson and Bontao, 2005). But as Fabila (2006) has observed, sulphide ore had already been exposed while the company was still extracting gossan ore. This meant that acid mine drainage (AMD), which is a natural phenomenon, happened rapidly. It occurs when mineral pyrite, which is composed of iron and sulfur, in sulphide ore deposits are exposed to water and oxygen thereby producing sulfuric acid.

With AMD occurring during mining or processing, heavy metals were also released to the environment, which the Multi-Partite Monitoring Team (2005) water monitoring report confirmed. Also in 2006, the treatment plant for sulphide ore had not yet been constructed (Fabila, 2006). AMD is considered to be one of the most serious environmental effects associated with hardrock mining (Stiller, 2000). It may be ameliorated at great financial cost if limestone or other buffering agent are used to treat the acidic waters, but once AMD starts, the process can never be stopped (Stiller, 2000). To avoid this, the state of Wisconsin, U.S., declared a sulphide mining moratorium. This means that mining companies were prohibited from operating a mine in a sulphide ore body unless they can prove that the mine can operate with no AMD for at least 10 years or that the mining companies have maintained a mine developed in

³⁰⁴ See for example TVIRD's article entitled Fishing and farming safe in Siocon dated December 12, 2007 In: <http://tvird.com.ph/fishing-and-farming-safe-in-siocon/>

³⁰⁵ Wastes generated are going to be segregated as non-acid generating and potential acid-generating (Norwest, 2004). It should be noted that segregating acid generating materials is "an unimaginable task" (Stiller, 2000, 97).

such an ore body for a minimum of 10 years after closure without AMD (Gedicks, 2001). The Philippines, however, has no such requirement.

The Subanos in Sitio Canatuan were also affected. Timuoy Boy Anoy explains:

Pugas pa lang gikaon na sa mananap ug takmot sa mais kaunon na sa uwak. Pag-abot nako dire 2006, nagpugas mi og isa ka-gantang nga mais. Nahurot sa uwak. Isa ka taro nga humay – nahurot sa maya og tukmo. Tung-una dili sila mukaon. Kami ang nadamay sa kasuko. Basi nasuko ang mga ispiritu nagpuyo sa dungos sa Konotuan. Pagtuo namo murag nalayo na ang espiritu sa humay; lisod na ang kinabuhian. Ang Subano walay kalubihan. [When the company operated, upland rice farming became more difficult. When I came back to Canatuan in 2006 [Anoy was forced to leave his place due to death threats from TVI's SCAA], we started to plant rice. However, the rats and other insects would already eat the rice seeds that we planted, while the crows would eat the corn seeds.³⁰⁶ One crow can finish off one *gantang*³⁰⁷ of corn seeds. One *taro* of rice is consumed by Eurasian tree sparrows and wild Zebra doves. When the mountain was still there, these animals had other sources of food that they ate but now they are eating rice and corn that we are planting. We felt that, although we did not destroy Canatuan, we are being punished and cursed for what had happened. Maybe the spirits that live at the peak of Canatuan are angry. We believe that the rice spirit has now gone away. Life is now difficult.] (J.B. Anoy, personal communication, 30 August 2009)

Clearly, what TVI considered as a minimal consequence of “only” one percent of the watershed that was going to be affected, actual consequences to the Subanos and the downstream communities were of a magnitude that rendered the Subanon upland farming, Litoban wetland farming community, and the fish pond industry located downstream of Canatuan unproductive and/or forced to go out of business. These consequences meant destroying the lives and

³⁰⁶ The Subanos use upland rice cultivation methods, which is less productive than lowland wet rice-land system due to inadequate inputs (e.g. water and fertilizers). Also, these methods are prone to pests and diseases (Adam, 2014).

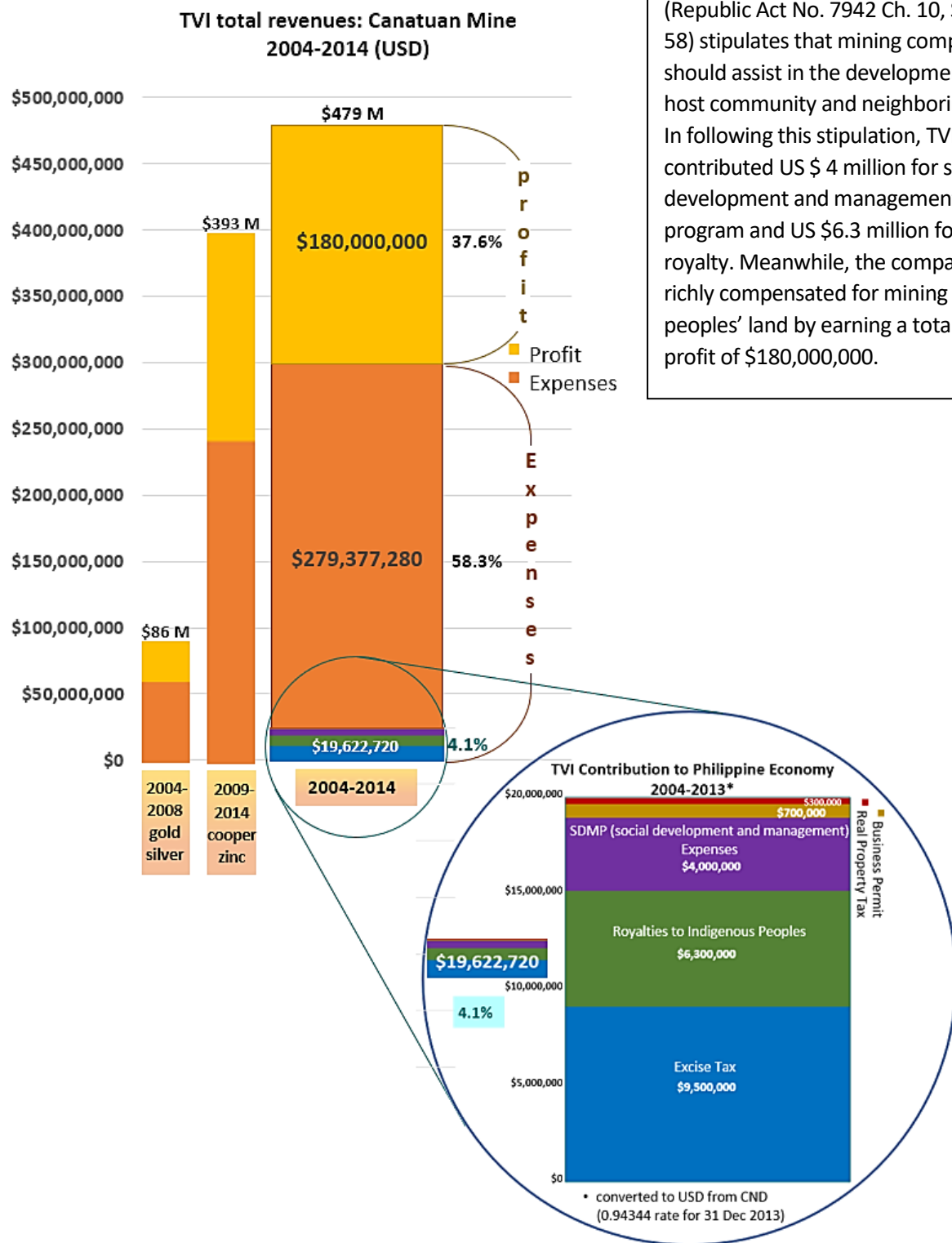
³⁰⁷ It is a measurement of dry content equivalent to three liters.

livelihood of a group of people whose welfare were not considered in the feasibility study or environmental impact assessment approved by the Philippine government.

8.1.2.4 The Company and the Philippine Government's Mineral Revenues: Mining for Whom?

When one also zooms out and examine the consequence of mineral liberalization to the national level, there is also a huge disparity in revenues earned by the company and the Philippines from the Canatuan mining project.

In this study, we conclude that those who benefitted least bore the greatest burdens, not only in receiving disproportionately less financially for the manipulated 'right' to mine in their land, but experienced profound disruption of their way of life and governance, their occupations, their food and water, and loss of their sacred mountain – their land and waterways – and their future, the futures of their children and the future of themselves as People. There are several ways to view this disparity of financial benefits, as shown in figures 8.4 and 8.5 below, apart from the other adverse consequences spelled out above.



The Philippine Mining Act of 1995 (Republic Act No. 7942 Ch. 10, Sec. 57-58) stipulates that mining companies should assist in the development of its host community and neighboring areas. In following this stipulation, TVI contributed US \$ 4 million for social development and management program and US \$6.3 million for IP royalty. Meanwhile, the company is richly compensated for mining in other peoples' land by earning a total net profit of \$180,000,000.

Figure 8-4 TVI's total revenue and contribution to the Philippine economy from 2004-2014
Source: TVI Pacific (2014a, 2014c)

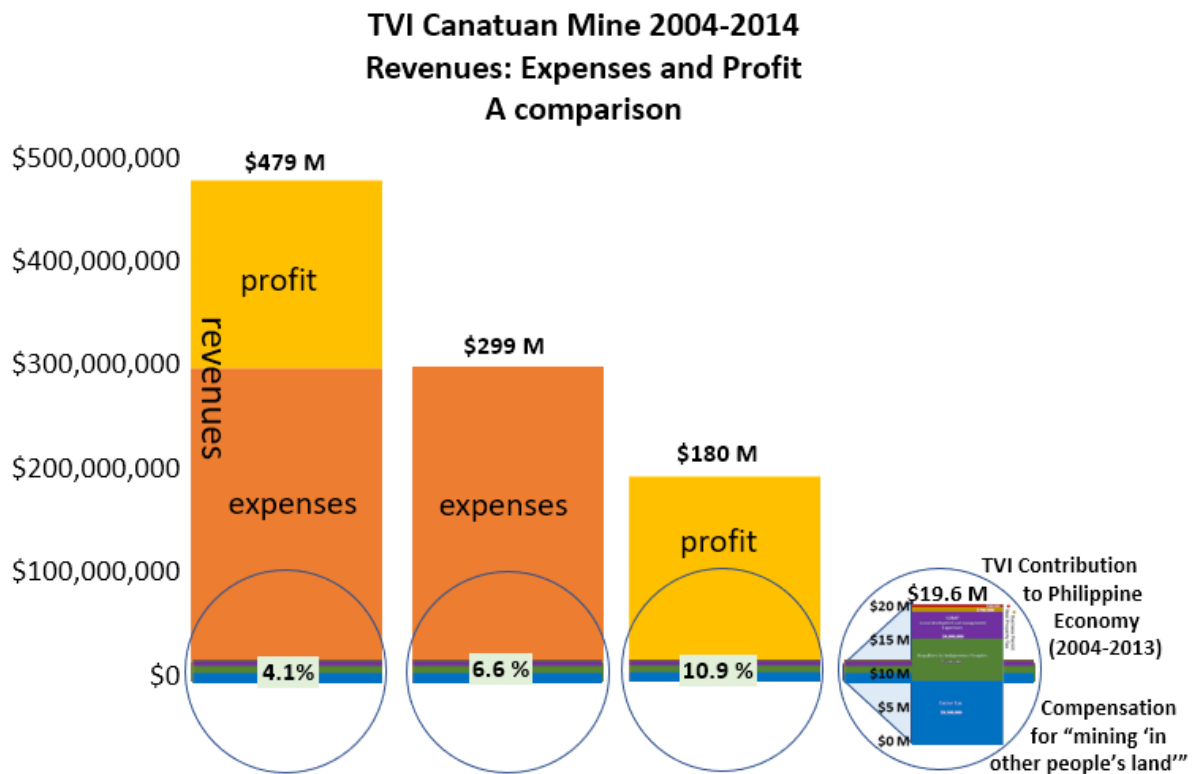


Figure 8-3. TVI Canatuan Mining Project’s Revenues: A Comparison of Expenses and Profit.

- 1) As part of TVI total revenues of \$479M – expenses and profit -- the Philippines and Subanos received \$19.6M or 4.1% of the total revenues as compensation for mining in their land.
- (2) As part of TVI expenses of \$299M payment as compensation to the Philippines and Subanos, \$19.6M was 6.6% of TVI total costs involved in mining in their land.
- (3) As compared to TVI profit of \$180M, \$19.1M as compensation represents 10.9%, slightly more than \$1 USD paid to the Philippines and Subanos for mining on their land in exchange for every \$9 USD TVI, as a foreign owned mining company, took out of the Philippines.

These figures support the conclusion of financial exploitation of Indigenous Subanos Peoples, with minimal economic development for Mindanao, not sustainable beyond the closure of the mine, along with adverse and lasting environmental consequences.

8.1.3. Mismatched Scales and Sustainable Development

Indeed, the Canatuan case elicits more reflection on several aspects. First, the Indigenous right to self-determination and governance, especially in relation to development and its scale. Indigenous communities are empowered to reject or accept development projects through the free, prior and informed consent (FPIC), which is stipulated in both the Philippine mining act and the Indigenous Peoples Rights Act. But as the Canatuan case has clearly demonstrated, corporate and government interests can and do circumvent this state instrument (Sanz, 2007) and dissipate and subvert strong Indigenous opposition to extractive and aggressive development projects. This is accomplished through asymmetrical power relations and political pressures (e.g. harassments, ambush, assaults) from powerful actors and their minions. It is to be noted that the Philippine government, while instituting progressive laws on Indigenous Peoples rights, did also amend rules and regulations to water down such regulation by reducing the number of days for Indigenous communities to deliberate and decide on development projects, while also requiring them to explain why they disapprove a development project.

The Indigenous governance and justice system are also ill-matched to handling the complexities of the politics and power relations with powerful actors, who are oriented to the government's justice system and structure, thus easily ignoring the Indigenous governing and justice system. The Canatuan case has shown in detail how Indigenous governance system was thwarted with external pressures by simply delegitimizing the traditional leadership, which splinters into factions. As a consequence, large-scale mineral development was approved and

history and context in which philosophical, moral and cultural values are integrated. Together, these values shape notions of breadth, depth, distance, size, speed, and the like in determining collective well-being or the common good. However, these collective values and notions are often ignored, overlooked and discounted. This is due to the dominance of western standards and values that shaped with individualistic philosophical and cultural values and scale, which are often quantified and assigned with numbers. As a result, numbers and the western quantifying method of judging value and worth have an enormous homogenising effect in reducing diversity and difference in the world to the measure of a scale of numbers (Sachs, 2017). As a consequence, the scale of development that should be determined by the host Indigenous community is often reduced to and disregarded in favor of the measures of the outsider(s).

When I went fielding in a neighboring Subanon community of Sitio Canatuan, where Timouy Ferding held a ritual, I noticed that two pregnant women were given two portions of a special Subanon rice cake that is cooked on special rituals, and other food served on that occasion. I asked the Timouy why was it that everyone got only one and these two pregnant women were given double portions of everything. He replied that even the unborn Subanon, who is still in her mother's womb, is already alive as a human being and must have a share of what was served during the feast. It reminded me of what the Gulang Gukom had said that the Subanos are very concern and mindful about the future generation since it is through the children that their culture and way of life are going to be passed on. This was also the reason why in their oral narratives, their Apo Manglang had instructed Apo Monokon to stage an assassination of the Jesuit priest, who took away their children so that they may be educated by outsiders.

It was in witnessing how the Subanos had apportioned food for the unborn child in a thanksgiving ritual that compelled me first to raise an overarching question at the beginning of my study – will mineral liberalization bring sustainable development to Mindanao?

The Philippines is a signatory to many United Nations declarations and covenants on the environment, Indigenous Peoples rights, and sustainable development. Several of the Philippine laws and policies (e.g. Agenda 21, the Philippine mining act of 1995, the Indigenous Peoples Rights Act) also stipulate provisions that take into consideration the needs of the current and future generations. Indeed, it can be argued that the Philippine government is mindful of sustainable development. But when examined through the lens of its mineral liberalization policy, it is proving to produce counter-finality. While the government aims for economic growth, the actual results of implementing such policy – the devil in the details -- is contradicting its stated intention to attain sustainable development for the country.

For a project to be sustainable, it must comply with the notion of intergenerational equity and intragenerational equity – the twin pillars of sustainable development (Holden and Jacobson, 2012). Intergenerational equity is a necessary condition for sustainability, which states that development being pursued by the present generation should not be at the expense of future generations. Intragenerational equity, which is an indispensable provision for development, stipulates that development must have benefits which are shared equitably among members of the current generation.

Closer examination of the Canatuan case and a macro appraisal of mineral liberalization as a development paradigm shows deep flaws since the accompanying forms of development do not meet the two conditions of sustainable development (Holden and Jacobson, 2012). Following Holden and Jacobson's (2012) argument, mining provides scant and short-term

benefits to current generations while imposing significant and long-term costs for future generations. Such development through mining generates neither widespread nor lasting benefits for Indigenous people.

As demonstrated in the Canatuan case, TVI's mining project lacks benefits for the current generation namely because the project was a very limited source for generating jobs (AMGP et al. 2006). During extraction stage, when mining was generating profits for the company, the company had employed only 628 workers, which includes 160 members of its security force (AMGP et al., 2007). Among those who were employed, were mostly non-Subanos and/or from outside the host community. The Indigenous Subanos who were hired worked seasonally and at menial jobs due to their lack of more advanced skills set. This same underrepresentation of local Indigenous people as workers is also present at the Rapu-Rapu Polymetallic Project on Rapu-Rapu Island Southern Luzon (Holden and Jacobson, 2012), and in other countries.

In addition, the Philippine government's mineral liberalization policy provides generous tax incentives (income tax holiday, tax and duty-free capital equipment imports, value added tax exemptions) to foreign companies. TVI was granted a mineral production sharing agreement which required only a two percent excise tax from the company. As a result, the company's Canatuan mining project generated a net income of US \$181 million dollars, while its total contribution to the Philippine economy was a mere US \$20 million, 11.05% of net income. On a macro scale, TVI's mineral extracts were usually refined and process not in Canatuan or in the Philippines but were shipped elsewhere due to lack of smelting refinery, and forward linkages to other industries. The Philippine mining industry per se operates predominantly on its own, lacking integration into other industries (Tujan and Guzman, 2002) and does not support the country's bid to national industrialization. This limited participation in full mining and refining operations is due

to the government's lack of political will to establish a vertically integrated metals industry, an arrangement in the Philippine society which is dominated by an oligarchy that maintains its power through the production and export of raw materials (Hawes, 1987).

On a meso level of analysis, the Philippine State has implemented several development policies in Mindanao that degraded and depleted the island's environment and natural resources. The Canatuan mining project is only one of 23 polymetallic mining projects located in Mindanao, where more than half of the country's on-going mining projects are located. The detailed analysis of the Canatuan case in this research as the basis of argument shows how mineral resources were extracted in the land of the Subanos without substantial benefits to the current generation. Such mining operations and accompanying organization virtually perpetuate the resource curse thesis which is demonstrated in repeated cases that the natural wealth of the island does not translate into a positive correlation with other kinds of economic wealth. The recurring results is that Mindanao is further pushed into under and uneven development, and its inhabitants living with wide disparity of wealth resource.

As to why mining lacks intergenerational equity and imposes costs on future generations Holden and Jacobson (2012) explain that mines require "perpetual attention" upon closure which places expenses upon future generations. To assure rehabilitation of mines, the Philippine mining act stipulates that mining companies are required to allot funds for a mine rehabilitation which shall be deposited as a trust fund in a government depository bank. But the amount of money required to be set aside for mine reclamation is not enough, and the length of time mining companies are held responsible for their projects is only 10 years after closure. It should be noted that the effects of acid mine drainage are actively operative on a geologic time scale that to allot only 10 years for mine reclamation is, indeed, "exceedingly short" (Holden and Jacobson, 2012).

In addition, rehabilitation plans are not subjected to higher standard of protection. Holden and Jacobson (2012) note that mining companies operating in the Philippines are using risk-based methodologies instead of worst-case scenarios in designing closure plans. Currently, the country has 31 mines sites that are either abandoned, inactive or closed (Teves, 2018). It is to be noted that there are not sufficient public funds to ameliorate environmental liabilities incurred for those mining companies that have gone bankrupt.

Mineral development in the Philippines also lacks intragenerational equity because of lack of widespread benefits. This is quite clearly shown in the Canatuan case where mineral wealth was generated not for the community or for the government, but for a foreign-owned mining company. It must also be pointed out that mining is finite. Once the minerals are fully extracted, the company closes the mine and moves operations to another location.

8.1.4. Spiraling Consequences

In 2004, mining in Canatuan was catapulted as a driver for economic growth, never mind if historical data screamed that the mining industry minimally contributes to the overall Philippine economy. But implementing a mineral liberalization policy is one of the many conditionalities that the Philippine government has had to follow beginning in the late 1970s in order to obtain loans from the World Bank and International Monetary Fund. The point of the Philippine government in agreeing to mineral liberalization was to boost a sluggish, debt-ridden economy by generating income so that the government would be able to pay off its external debts, generate jobs and provide livelihood to a population whose majority existed in poverty. How the Philippines got to be in this situation was a combination of pernicious factors including its history of colonialism and neo-colonialism, an oligarch that controlled the state

and its economy and whose interest was more in enriching itself, a weak state and rampant regulatory capture by foreign interests, and the implementation of a technocratic development agenda based on neoliberalism.

With such interest-driven contexts, will mineral liberalization indeed bring sustainable development to Mindanao? From what this case study of mining in Canatuan has demonstrated, such policies produce economic, social, cultural and political consequences that are not only adverse but devastating in their effects. Mineral liberalization as played out in mining is simply a flawed development paradigm that also has counter-intuitive and of counter-finality consequences. Instead of alleviating poverty, mining has become an instrument for the constant reproduction of poverty and environmental degradation and destruction, and the finitude of natural resources that are both on and underneath the earth.

On the global scale, the Philippines is not the only country that has implemented a mineral liberalization policy. There were many other countries, which, like the Philippines, had to liberalize their mining industries in the late 1980s (Bridge, 2004a). Most likely, they (e.g. Ghana, Guatemala, Papua New Guinea) were also experiencing the same contexts and outcomes as Canatuan. It should be noted that in 2015, almost 200 world leaders have adopted the 2030 agenda for sustainable development known as the United Nations Sustainable Development Goals (SDGs). It has 17 sustainable development goals (SDGs) with 169 targets. It is more comprehensive than the millennium development goals (MDGs) as it seeks to cover the three interconnected dimensions of sustainable development: economic growth, social inclusion and environmental protection. Compared to the MDGs, which only applied to developing countries, the SDGs now apply to all countries (www.un.org). It tries to address the global challenges that the world is encountering such as poverty, inequality, climate,

environmental degradation, prosperity, and peace and justice. Thus, the SDGs are interconnected with the aim of not leaving anyone behind.

However, the SDGs are not legally binding and lack sanction mechanism. Their implementation and success rely on the country's own sustainable development policies, plans and programmes. Also, SDG implementation requires substantial investment to mobilize financial resources in both developed and developing countries. But how to direct investment so that it supports sustainable development is seen as crucial and unanswered question in achieving the SDGs (www.un.org). In order to determine whether and to what extent the SDGs are properly being implemented, the UN Statistical Commission will come up with indicators that will be agreed upon by the member countries. With such noble calls to action, the SDGs actually fail to “hide the fact the once-rousing model ‘Development’ is more or less narrowed down to requirements for survival” with seven goals dedicated to human vulnerability, and five goals to ecological vulnerability (Sachs, 2017, p. 2575). The UN SDGs also neglect (as usual) to explain the root causes of continuing and rising poverty and of the decline of the biosphere. SDGs also do not recognize the influence and dominance of the “technocratic paradigm that also tends to dominate economic and political life. The economy accepts every advance in technology with a view to profit, without concern for its potentially negative impact on human beings” (Pope Francis, 2015, para 109). Such a technocratic paradigm has also entrenched the dominance of numbers, of quantitative measures and formulas that simplify and reduce complexities. It tends to disregard history, social struggles, cultural world views and practices that are critically important for ensuring outcomes and consequences that are desirable, just, and liberating.

Here, I juxtapose Pope Francis' encyclical, “*Laudato Si: On Care for Our Common Home*” that goes beyond what SDGs aim to address. It speaks about mutual dependency and

interconnection. “Time and space are not independent of one another... just as the different aspects of the planet... are interrelated, so too living species are part of a network which we will never fully explore and understand” (Pope Francis, 2015, para 138). Such an interconnected view goes against and backgrounds the technocratic paradigm that gives more importance to the economic and financial systems, while foregrounding the common good, calling for reflexive action, non-technocratic behavior, and authentic humanity.

8.2. Consequential Autoethnography: Solidarity and A Quest for Authentic Humanity

8.2.1. “What am I doing here?”

More than a few times while fielding in Zamboanga Peninsula, I have asked myself in desolation “what am I doing here?” This question haunted me as I dealt with emotions evoked by the abject poverty of Indigenous people, the historical injustice and present environmental degeneration that surrounded us. On the other hand, when I get to witness the intricacies of preparing for a *boklog*, the highest Subanon ritual, and I am alongside the *bolyan* (Subanon shaman) present to the whole process, a surge of wonder and joy takes hold of me. Also, when I found my rhythm and I get to jump up and down in unison with the Subanos on the *boklog* platform, like a giant trampoline but made out of *dlebalud* tree and built without a single nail, we produce continuous loud drum beatings to summon the spirits that they believe in. Again, I ask “what am I doing here?” Now I am overwhelmed with gratitude and awe, bowing down in total abandonment of spirit.

I remember how I started – by coincidence. I had no idea what was going on. I only followed the promptings that came my way in the events as they were unfolding. I listened, pondered, respected, and moved into action when I’m told to “Go there.” “Stay put,” “Get off,” “Can you do this?”, “Let’s go” (and I don’t know where, but I was on my way), “Just between us,”

“Enough,” “No.” And then, I respond to that little voice inside saying, “Be still” as I passed beneath a rainbow’s arch, which felt almost within my reach if it were not for the cliff next to that narrow mountain passage that I was passing through.

Also, there were more than a few times when I should have walked away for good. Strangely though, I always came back to Subanon land. It was as though I was obsessed or possessed in following the unanticipated consequences of the Subanon chieftains in their struggle, how they navigated institutional structures and policies (e.g. logging, mining), global agreements and neoliberal market forces driven by a hand they could not see but whose effects they felt.

My hope and aim were to examine the impact of mineral liberalization. Because of what I saw and experienced in the numerous interactions and conversations I had with so many actors at the local, national and international level while fielding, I realize now that their stories were being interwoven with mine. Their struggles had also become my struggle. I am a woman and I am from Mindanao, an island whose beauty is mostly revealed in the hearts of its people, who try their best everyday to survive, make ends meet, and live with dignity amidst the crushing realities of deprivation, hardship, injustice and armed conflicts. Theirs, mine – ours – is an evolving story of purposive actions that we have to make as individuals and as a collective in relation to institutional and structural policies, and whose consequences I felt had become my obligation to follow and document. While fielding I have observed that actors have taken actions whose consequences were expected and intended. They also chose what they considered to be of lesser evil as they opted to take actions that have unanticipated and unintended results. However, there was “a price to be paid” for choosing one course of action over other possible alternatives. There were also actions that were intended, but whose outcomes were not realistically expected

to happen in the short term. Some actions taken had also generated both unintended and unrecognized consequences, but that were not necessarily negative or undesirable to the actors (Sztompka, 2015). I was also cognizant that there were consequences that spread out in many directions like ripples swelling outward, merging into waves. They resulted in unintended structures and further outcomes that would no longer be recognized, perceived and controlled by the individual and the collective.

As I kept on documenting, writing about and being engaging with those who were originally the “Other,” I found myself also considering what kind of social being I had become in the course of my fielding. Along the way I realized that my initial conceptualization of ethnography as a methodology in following the unintended consequences of mineral liberalization felt tepid, if not impuissant. This is because it leaves out the interior confrontations that often demand an examination of what is right, just and humane. Foremost of my struggle was to hide my “I” in the pursuit of apparent impartiality and objectivity as constructed and legitimated by a view of science that reduces knowledge to the measurable or confirmatory. But from the other direction, a holistic view of science was to disclose my subjectivities, positionality, and choices made in pursuit of a scientific approach that also maintains, if not attains, a fuller and more detailed accounting because it recognizes, acknowledges and consider my “I” as a primary and reality-telling instrument of research as well. But what become of greater importance was how I processed and deliberated about my own actions, interventions, and orientation and the source of my personal lens.

8.2.2 Freire's Pedagogy

I need to ask myself “How did I get here, again?” as I acknowledge and recognize with gladness and humility the privilege of my finally being able to tell an intertwined set of stories – both mine and the stories of the Indigenous Subanos, of the small-scale miners, of their interactions with NGOs, of the mining company employees and officials, of government agents, and of the people whom I’ve encountered in the field. It has been a long journey (see Figure 8-5 for graphic overview and summary).

Timeline for Ethnography – Programs, Projects, Reports, Fieldwork, Presentations

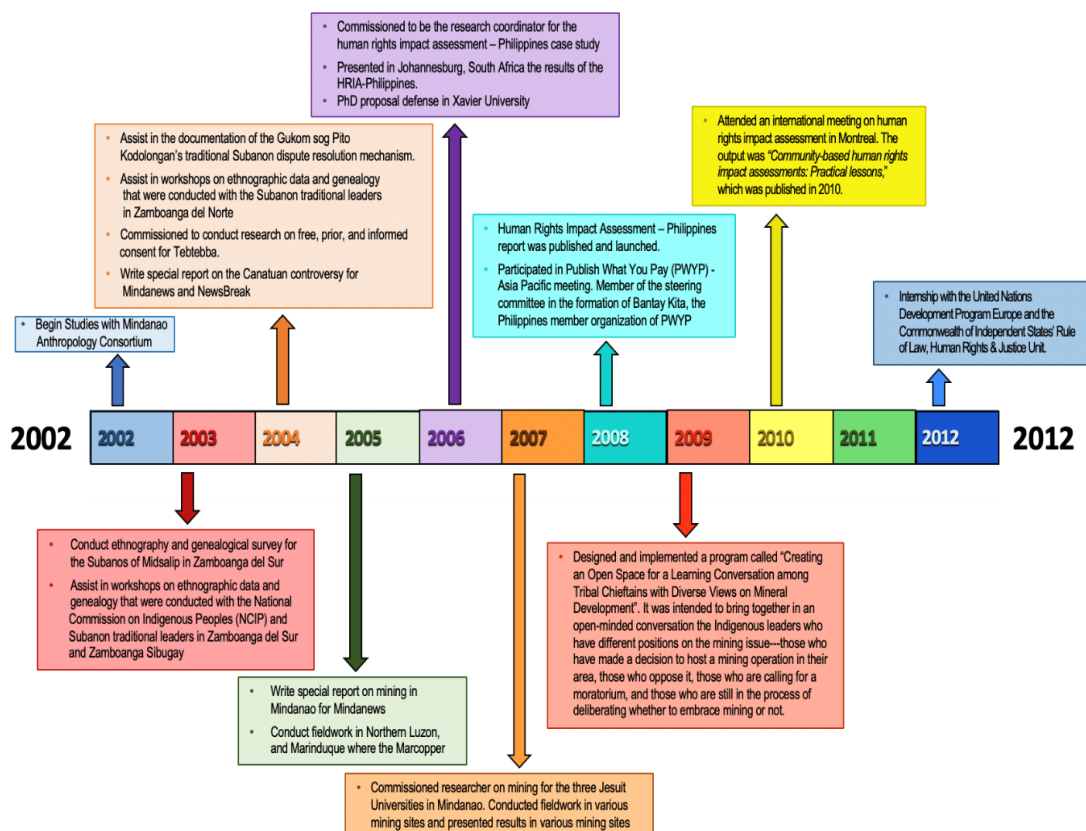


Figure 8-5. Graphic overview of autoethnography

It came very close to never being told as I nearly capitulated to a dominant worldview of reductionism which eclipses and discounts the “I” in relationships in knowing. Again, there was that choice to walk away from it all. But, there remained a task to be carried out. It all started from a certain drumbeat that I heard since high school.

At 16, I read Paolo Freire’s (1974) *Pedagogy of the Oppressed* where he identifies a central problem about humanization as an “inescapable concern.” It was a drumbeat that I recognized as akin to the Tagalog expression, “madaling maging tao pero mahirap magpakatao (it is easy to be human, but difficult to be humane).” I had been mulling over this expression all summer after graduating from high school. I heard it pulsate with such force because it resonated strongly with the teachings I had learned about not only feeding the poor with fish, but also teaching them how to fish, and going further – making sure that there are also fishes in the ocean. The drumbeat became louder in college when I came face-to-face with a woman, who chewed dead radio batteries out of starvation, because of a long drought in Mindanao. I hiked for a whole day up in the mountain ranges where the borders of Davao, North Cotabato and Bukidnon meet. I found her sitting in a deep squat with her chin touching her knees, yet remain upright, balanced on her heels. She kept her head low, staring at the parched, cracked earth most of the time. The long drought, her husband told us, left them starving since there were no more root crops to be found. Whatever they had planted did not grow after more than a year without rain because of El Niño.

It made me ask for the first time with seriousness, “what am I doing?” Can an article move other people to help this mother of eight children seek sustainable medical and livelihood assistance? It was so easy to explain her condition as resulting from drought, poverty, lack of

education, choice of having so many children to feed. But her circumstances were also an outcome of policies that had been implemented in Mindanao. It is more than a little ironic that this island, as big as Singapore and much richer in natural resources, is unable to provide for the needs of its people. The woman's destitution, not an isolated case, was also a result of a vicious system shaped by colonialization, technocratic and development paradigms that perpetuated illiteracy, elitism, corruption, inequality and unjust practices. In the context of Mindanao, it also resulted in armed conflicts.

At 16, I was compelled in reading Freire to ask what if everything had been taken away from me – my liberty, my will, my possessions – what am I? Then the next question, “which side am I on?” Questions evoked by Freire's words directed me to that “great humanistic and historical task of the oppressed... to liberate themselves and their oppressors as well” (Freire, 1974, p. 28). But after finishing college, I decided to march to a different drumbeat, which directed me along a road that is often taken. Here I set up my own small publishing business, which became a harbinger of entrepreneurial and corporate interests. While I continued to march to this frenzied drumbeating with considerable financial success, my soul, however, chose to dissent, sensing its perdition. The sound of Freire's drumbeating was still there: “It is only the oppressed who, by freeing themselves can free their oppressors. The latter, as an oppressive class, can free neither others nor themselves (Freire, 1974, p. 42).” That drumbeat sound caused me to examine the choices and actions I was making in relation to the humanization and dehumanization of myself and of others. My soul demanded that I decisively resolve my contradiction in the same way that Freire urges the oppressed to wage the struggle to resolve the contradiction in which they are caught. Such contradiction, Freire (1974) notes, will be resolved

by the appearance of a new person who is neither oppressor nor oppressed, but a person in the process of liberation. Such had become my hope and now was to direct my actions.

In turning my away from what I had achieved, “what am I doing here?” became an oft-repeated question accompanied by others. “Why am I here again?”, “Did I hear this right?”, “What do you think?”, “Can we do this?”, “Where is this going?” reverberated as I kept coming back to Subanon land and hearing more the subtleties and intensities of various drumbeats. Fielding then is more than the recursive practices of fieldwork, documentation, and theorizing. It is constantly being on one’s toes, walking quietly to hear “those questions that have no right to go away” and which compel a researcher to take purposive actions that she and her companions become more humane.³⁰⁸

Looking back in examining and analyzing the reports from the various mining sites, I saw how the layers upon layers of consequences of social, economic development and government policies (e.g. migration, discrimination, logging and mining) had stripped the Indigenous community’s collective self-esteem. Even worse, these actions had consequences of dehumanizing them as their sacred places and culturally significant sites were degenerated and desecrated. The community divisions, which are common when large-scale extractive projects are brought into small-scale communities, also resulted in their striking out at their own neighbours and family members for the pettiest of reasons. These forms of horizontal violence only perpetuated the oppressors’ power (Freire, 1974). It was through fielding and the frequent and many exchanges I had with the various leaders and members of factions in the community that I saw how jealousies, prejudices and misinformation are wedges that dehumanize.

³⁰⁸ David Whyte’s (2011, 2012) poem, “Sometimes”.

Is it possible then for me to take purposive action in confronting these obstacles, moving towards real conversations and humanization? How can I do this in a way that I am able to interfere in the least possible ways with these peoples' freedom to direct their own destinies and their exercise of their powers to do so? How would I be able to carry out such an intent in a way that I am able to maintain a sense of truth and integrity for myself and for the Subanos' self-determination in order that they may realize their humanity and autonomy? I am a woman who is also a product of a patriarchal and oppressive society. I have my own share of anger and frustrations for not being born male. But I am a woman from the developing world where her community and sense of collectiveness is deeply ingrained. So, it is not enough that I simply adopt the golden rule of "do unto others as you would have them do unto you" (Matt. 7:12). I must seek pathways for me, the Subanos, and those whom I have yet to encounter along this road I have taken to engage in true reflection about their/our actual situation that they/we may be able to engage in action that constitutes authentic praxis through critical reflection. This has meant wholeheartedly trusting the Subanos and in their ability to reason. This I believe is my action with the oppressed.

So as an ethnographer of the consequences of the purposive actions of the various actors who were caught in the maelstrom of mineral liberalization, I resolved to actively engaged and become an activist social researcher. Relying on my research data and fielding, I took a calculated risk. I created a pathway for the Subanos and other Indigenous leaders, who have differing views and positions on mining, to have a *pakighinabi*, an open conversation (see Vignette 4.8 and Vignette 4.9) about their community, relationships, and the ways forward in relation to mining and toward restoring their traditional way of life, particularly their Indigenous governance. I had no agenda – personal or political. What I had was a hope that through an open

conversation in a neutral place, the Indigenous leaders would be able to have an honest reflection about their conditions they were facing and to engage in actions that would bring out their humanity as shaped by their Indigenous culture and personhood. Indeed, while I disagree with the decision that the Indigenous leaders of Canatuan took collectively, I have trusted them and their capacity to reflect and decide what was best for them and their people.

8.2.3 Ways Forward

As I again watched Timouy Ben's 2012 video about the Subanos' ongoing concerns in Canatuan, many thoughts were running through my mind. Why do Indigenous communities (again) bear most of the risks and costs of extractive development projects such as mining? Why are the State and the mining companies unwilling to walk the extra mile in conducting due diligence in identifying social and ethnic groups? Without knowledge that includes variations in ethnic composition and the ways in which identity is expressed or created, community stakeholders will not be treated equally. Answering these questions means that, in addition to the archaeological assessment that the EIA requires, it is imperative an anthropological assessment of the community's cultural claims (including a sacred mountain) and learning their indigenous governance system be conducted. As gleaned from the Canatuan case, TVI commissioned an archaeological study, which concluded Canatuan was not archaeologically significant because no artifacts were found in the area. The Philippine government refused to take seriously claims of sacred spaces made by the Subanos. It would a significant step forward for the Philippine Government to consider using a strategic environmental assessment that would be able to identify other alternatives at the earliest stage and before decisions are locked in (King, 2013). Such a forward-looking strategic environmental assessment must be attuned to the country's

island ecosystem with natural hazard vulnerability (e.g. earthquake, typhoon, tsunamis, El-Nino induced drought, etc.) (Holden & Jacobson, 2012) and, in the case of Mindanao, also taking into account war, armed conflicts, and human rights abuses. Thus, mineral applications should require both human rights impact assessment and peace and conflict impact assessment (Bush & Opp, 1999; Hoffman, 1999), particularly in Mindanao. Impact assessments, specifically the EIA, should also be made accessible and transparent to the public, without required consent from mining firms for their release (Holden & Jacobson, 2006). Without this basic right to access information, the communities run the clear risk of making decisions that involve a degree of uncertainty (Vivoda, 2008), which thereby predisposes them to accept terms of so-called agreements that will continue to result in their bearing most of the development costs.

On a broader perspective, these impact assessments will continue to remain ineffective due to ineffectual institutions of governance resulting from a weak Philippine State (Milo, 2007). The Department of Environmental and Natural Resources, Mines and Geosciences Bureau, and the National Commission on Indigenous Peoples were found to be ineffective in applying and enforcing existing legal provisions pertaining to mineral development due to constraints in their operating resources – budget and expertise (Vivoda, 2008; Tuyor et al., 2007). With few government experts on natural resources valuation, local governments lack the capacity to estimate realistically the projected benefits of mining (Landingin, 2008). It is crucial then that the Philippines endeavor to rebuild a strong state that results in effective governance institutions. The country's mineral liberalization policy, anchored in its neoliberal development agenda, assumes that the Philippines has a strong state with efficient and effective government institutions. Such an assumption, as demonstrated in this case, is clearly unwarranted.

In my judgment, the Philippine government must reconsider its mineral liberalization policy and neoliberal development agenda. Under such policies, foreign mining investments have been and are privileged. These foreign mining company investment have been given incentive packages immensely favorable to the company at the clear expense of the community and even the country, as shown clearly in the TVI's Canatuan mining project and its statement of profits. The fiscal regime for mining investment must be revamped. More fundamentally, the Philippine Mining Act of 1995 itself should be reviewed for full repeal.

Again I re-played Timouy Ben Alog's video clip and re-read the text below. How did I miss this? I noted that the English translation of what he said about Mount Canatuan as their life is in the present tense. Canatuan as a mountain is gone – fully extracted of gold, silver, copper and zinc. Mount Canatuan is dramatically different from how it was in 2002 when it was still relatively verdant. I remembered that it was during this time who SSAI was captured and how the Subanos' free, prior and informed consent process was circumvented by the State itself (Sanz, 2007). I still wonder if the consent processes in the Philippines, when approached with an equity framework that "highlights the social choices and trade-offs involved in determining precisely what must be equal and among whom" (Mahanty & McDermott, 2013, p. 408), would matter when the Subanos faced the brazen power of the State in collusion with the company, and other powerful actors. I still doubt that such powerful forces could be successfully resisted. But then, the Philippines is a Catholic country, at least as measured by the religious practice of the majority of its people. Would the oligarchs, and the global elites in the North even consider Pope Francis' (2015) *Laudato Si* and how he exhorts the priority of the common good and overall well-being of the people, and his argument that everything is inter-connected and inter-dependent. Would it not be in the oligarchs and the global elites' self-interest to care for nature

and human beings as a whole? Pope Francis' plea to move towards a "bold cultural revolution" by slowing down and looking at reality in a different way, and "recover(ing) the values and the great goals swept away by our unrestrained delusions of grandeur" (p. 86) focuses on a common home that we must protect. This is a view counter to the dominant ideology of neoliberalism, the focus of this research and dissertation. Pope Francis is challenging the rich and those in power to adopt a strategy of sufficiency, an alternative viewpoint where the Indigenous Peoples like the Subanos, and human beings in general would be respected in their own right and not as their monetary value in the marketplace. I return to Freire's perspective that it is only the oppressed who, by freeing themselves, can free their oppressors since the oppressive class, can free neither others nor themselves. Sachs (2017, p. 2581) argues that it is the "rich who have to change, not the poor; it is wealth that needs to be alleviated, not poverty. By requiring the rich to refrain from appropriating the surroundings of the poor, the powerless are accorded more freedom"

As I listened again to what Timouy Ben spoke in the video about Canatuan as their life and the threats the Subanos face, I opened google earth and typed in "Canatuan Mine." I saw TVI's open pit mine in 3D. It gave me the goosebumps. I felt for quick seconds how the dead ancestors of the Subanos would feel upon seeing what happened to their *Konotuan*, where they had a sacred covenant to protect and cherish it. As I clicked on the 2D icon (see Figure 8.6 just below) for a 2019 aerial view), I felt that I was back there myself as I spotted the club house, the Manhattan village, the plant and the tailings pond. But I wonder how the present Subanos are going to speak of Canatuan as their life, their "grocery", and "pharmacy" to their children when it has now been stripped of its thick forest and reduced to bare land? From the photograph that I see on google earth's aerial view of Canatuan, the *impak!* of mineral liberalizations on Indigenous peoples, their ancestors, their land and their way of life speaks more than any words.



Figure 8-6. TVI's Canatuan mining project satellite view using Google Earth taken on September 2019, five years after the company declared its closure.

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APPENDICES

APPENDIX A

Accounting for Length of Time in Completing PhD Programs: 2003-2019

I began this research in 2003 as a doctoral student of the Mindanao Anthropology Consortium (MAC), a program which Xavier University (XU) in Cagayan de Oro City was one of five participating universities (pages 73-74 in dissertation; check on pages). Two other students and I, graduate students at XU, were contingents of Mindanawon Initiatives for Cultural Dialogue, which was based in Ateneo de Davao University. We joined 12 other graduate students, three from each of the other four Mindanao Universities that formed MAC.

At XU, I completed 14 courses in anthropology and in 2005 passed my comprehensive exams for each of these courses. In 2006, I also successfully defended my dissertation proposal which was entitled, “*Gantang*. An Anthropological Study of Mining in the Context of the Subanon of Zamboanga del Norte” (Sanz, 2006). At XU’s MAC program, I undertook my doctoral research in the way that I have subsequently named “consequential” in chapter two.

In December 2008, after two years of intensive fieldwork, I went to XU to inform the MAC’s program coordinator that I had completed my fieldwork and intended to defend my PhD in 2009. It was only then that I learned the MAC program had been dissolved in 2007. This had taken place because XU had been reduced to a Level III rating with the Philippine Accrediting Association of Schools, Colleges and Universities (PAASCU). From 2002-2006, XU had enjoyed a Level IV status, which meant that it had “autonomy to offer new graduate programs allied to existing Level IV courses, open learning/distance education and extension classes without need for prior approval by Commission on Higher Education (CHED) provided that the concerned CHED Regional Office is duly informed” (www.paascu.org). Such status and privilege were conferred by the PAASCU. All member institutions go through a PAASCU periodic review every five years. A Level III rating meant the dissolution of the MAC program as an unintended consequence. I was left in limbo, with the only option of going back to first year and beginning in XU’s PhD in Sociology program as the Dean of Graduate Studies had proposed. I appealed my case to the Philippine government’s Commission on Higher Education but no resolution was forthcoming.

In March 2010, I participated in a major international meeting on community-based human rights impact assessment organized by Oxfam and Rights and Democracy (2010) in Montreal. After the meeting, I was invited to stop on the way home at the University of Saskatchewan in Saskatoon to give three talks in the College of Law. My presentations resulted in an invitation to consider enrolling in the Interdisciplinary PhD program. Since the Xavier University PhD program still had not been reinstated, I accepted the invitation. Following my application and an interview with Dr. George Khatchatourians, Head, InterDisciplinary Studies (p. 249), I was offered a scholarship and admitted as a PhD graduate student.

An interdisciplinary committee was formed for me. Based on my extensive field research on mining in Mindanao with MAC, the committee did not request either that a dissertation proposal be developed or an ethics proposal be submitted and approved. The comprehensives I had taken in the Xavier program were recognized and hence no additional comprehensives. These decisions were apparently made on the assumptions that neither a formal research proposal nor ethics approval was necessary, since the field work, data collection and comprehensives had already been completed. It should be noted that Xavier University did not have a requirement of a formal ethics review of research proposals during my time as a graduate student. I was advised, however, to take courses on environmental impact assessment, theory of international relations, and environmental anthropology. I completed nine graduate courses.

Although I had been developing a dissertation based on the field work I conducted over seven years and the questions that I had been pursuing as part of MAC as an ethnography of mining and scale to respond to the needs of Mindanao in attaining sustainable peace and sustainable development, my interdisciplinary committee wanted me to give attention to analysis of mining in Mindanao by a Canadian mining company in a macro context. Hence my original focus on the consequences of mining for Indigenous people, based on participant observation and engaged social collaboration, with an ethnographic approach and framework, in the context of the Philippine State 1995 mining legislation and neoliberal policies and ideology, did not mesh. Several attempts to find common ground with the supervisor and committee failed.

It should be noted that between 2010 to 2018, I had various opportunities to grow and develop my scholarship, teaching and research skills. In 2012, I was the University of Saskatchewan College of Graduate Studies and Research's first choice to be sent to the United Nations Development Program (UNDP) Europe & Commonwealth of Independent States, Bratislava Regional Centre. I worked with the Policy Adviser, Human Rights, Justice and Legal Empowerment Department where I conducted a comparative study of the human rights situation of eight former Union of Soviet Socialist Republics (USSR) countries for the upcoming universal periodic human rights report of these countries. My work with UNDP was highly appreciated (January 10, 2013 - email correspondence via U of S director of special projects) especially that it was the Universities of Canada-United Nations Development Programme (UCAN/UNDP) Internship Pilot Program, which was launched by the CGSR with participation from the University of Manitoba, Faculty of Law and seven UNDP Country and Regional Offices.

In 2013, I became the managing assistant for the Engaged Scholar Journal (ESJ): Research, Teaching and Service-Learning, the first Canadian journal on engaged scholarship that is interdisciplinary, peer-reviewed, and open access. It aims to "critically reflect on engaged scholarship, research, and pedagogy pursued by various University and community partners, working locally, nationally and internationally, across various academic disciplines and areas of application" (www.esj.usask.ca). My collaborative engagements with the Subanos had given me some vantage point on research methods and importance of building rapport, trust and relationships with the community. As the Journal's managing assistant, I am seeing how the engaged scholarship in Canada is being shaped in various ways, and how similar or different from how Mindanao's community-university engagements that is cognizant of the need to work for sustainable peace.

From 2012-2014, I had graduate teaching assistant awards to assist in the following courses: cultural anthropology, anthropology of religion and environmental anthropology. In 2015-2016, I had a graduate teaching fellowship with the Department of Archaeology and Anthropology. In 2016-2017, I had graduate teaching assistant awards to assist in political ecology and environmental anthropology. In Fall 2018, I worked as sessional lecturer at St. Thomas More College teaching cultural anthropology.

Within this period, I composed and submitted a number of major drafts of my dissertation. None was acceptable to the supervisors. In November 2017, my advisory committee and I recognized we had reached an impasse. Our goals were not compatible. It was then that my supervisors asked me if I wanted to change my advisor committee. After some consideration, in early January, 2018, I requested that a new committee be formed, with a focus that was congruent with and adequate to my earlier fieldwork and ethnographic (anthropological) approach. The formation and formal approval of a new advisory committee by the College of Graduate and Postdoctoral Studies finally occurred in early April, 2018. This delay meant that my student visa expired. I reapplied for a renewal of my student visa which came through about 6 weeks later.

InterD/CGPS assigned a deadline of 31 December 2018 to submit my completed dissertation for defense. With my co-supervisors, I repositioned and refocused my field research as an autoethnography. This repositioning of my research and previous writing allowed me to draw directly on my extensive ethnographic field work and notes (journals, notebooks, previous publications – reports, newspaper articles, article). With this composing strategy, I was able to develop a more nuanced analysis of the impact of mineral liberalization in the micro, meso and macro levels. In 2018, Professor Robin Hansen, College of Law, University of Saskatchewan (now a member of my advisor committee) and I coauthored and published some of my previous analysis of consequences and HRIA analysis.³⁰⁹ In late December, I completed the drafting of the repositioned dissertation, with a focus that I now titled “Mining in other people’s land: The Unintended Consequences of Mineral Liberalization in Subanon Land in Mindanao, Philippines” and submitted it to CGPS.

When the external examiner, Dr. William Holden, in his pre-defense report, raised the issue of ethics approval, Dr. Martha Smith, Associate VP CGPS, contacted the University of Saskatchewan’s Ethics office for advice. After reviewing the matter, Dr. Diane Martz, Behavioral REB Chair, concluded that an ethics review was required. Following this account is Dr. Martz’s letter of ethics approval sent to Dean Trevor Crowe, CGPS, based on her reading the dissertation and an extensive interview with me on 26 April 2019 for completing an ethics review of the research I had conducted. Dr. Martz states that an ethics review should have been done. In retrospect, Dr. Martz concluded that the research I conducted met the ethical

³⁰⁹ My collaboration with Robin Hansen had its beginnings in 2010 when I met her to present my study at the College of Law. We had a series of discussion pertaining to human rights impact assessments, John Ruggie’s protect, respect and remedy frameworks and international trade and investment laws. In 2013, we obtained an Engaged Scholar Knowledge Mobilization Graduate Student Catalyst Award, which was designed to enable a faculty member to sponsor a graduate student, with the outcome of a co-authored article.

guidelines, adding that certain conditions related to anonymity and quoted materials from interviews must now be met within the dissertation itself. These instances of actual names have all been changed to pseudonyms. All other conditions of the ethics review have been met.

On 30 April 2019, I successfully defended my dissertation.

Getting to a completed and successfully defended PhD dissertation – in two Universities – has been prolonged. It has involved extended field work in Mindanao from 2003 through 2009, a collapse of the Xavier University PhD program in 2007, and enrollment and participation in the University of Saskatchewan InterDisciplinary PhD program from 2010 to 2019. As an autoethnography, this research gives sustained attention to first-hand consequences of mining “in their land” for the Indigenous Subanos of Canatuan way of life, including the lens of international human rights and their assessment. This approach is appropriate for and adequate to the research field work I had conducted. It allowed my fundamental concerns about the way of life of the Subanos of Canatuan, and issues of human rights of Indigenous people in the context of foreign mining and neoliberalism to be taken into account. This approach has also allowed me to honour the request of Timuay Jose "Boy" Anoy to tell the story of the Subanos of Canatuan and what happened to them and their way of life when others mined in their land.

I trust this short account allows a reader to make sense of the time gap between the beginning of the field research in 2003 in Mindanao, Philippines, and the completion and defense of this dissertation in spring 2019 in Saskatoon, Saskatchewan. The research I conducted has been drawn out, interrupted and complicated by unforeseen consequences – not typical for most dissertation research programs. I am grateful to the University of Saskatchewan and the College of Graduate and Professional Studies: first, for finding ways to make space for my exploring this set of research questions from field work conducted in Mindanao and the story of the Subanos of Canatuan who faced disruption of their way of life; and second, for holding this research to the CGPS usual high scholarly scrutiny and professional research and ethics standards. In doing so, the University has allowed the Subanos people’s story to be documented and told, to be presented and analyzed critically in the pages of a dissertation, probed in a rigorous, successful oral defense, and to be published as a dissertation manuscript in the UofS Murray Library.

APPENDIX B

Ethics Review

Memorandum

TO: Dr. Trevor Crowe, Interim Dean CGPS; Dr. Martha Smith, Acting Associate Dean.

FROM: Dr. Diane J. F. Martz, Behavioral REB Chair

RE: Ethical Review of PhD Candidate Penelope Sanz's dissertation entitled Mining in Other People's Land: The Unintended Consequences of Mineral Liberalization in Subanon Land in Mindanao, Philippines submitted for defense.

.....

Dear Dr. Crowe and Dr. Smith

I have thoroughly reviewed the draft dissertation and met with Ms Penelope Sanz, PhD Student; Dr. Linda Wason-Ellam, Co-Supervisor; Dr. John Thompson Co-Supervisor; and Dr. Gail McKay, Committee Chair and Nick Reymond, Research Ethics Specialist.

Ms. Penelope Sanz began her PhD at Xavier University in the Philippines in 2003. This institution did not have an ethics committee and, as a result it would not have been possible for ethics review at that institution at that time.

Her PhD work at the University of Saskatchewan began in 2010 in the Interdisciplinary Studies Program. Dr. Linda Wason-Ellam recounted to Nick Reymond, Research Ethics Specialist that in her capacity as Chair of the Interdisciplinary Programs Committee, she had an unofficial discussion with someone in the Research Ethics Office in 2010 in which she was told this research did not need ethics review because the data was already collected.

This advice was in error and this research did require ethics review because it is secondary use of non-anonymous data gathered through participant observation, interviews and focus groups. Based on the 2010 version of the TCPS2, the research should have been reviewed in 2010 when the student began her program at the U of S.

After reading the dissertation and interviewing the student for 90 minutes, I have concluded that the original data was collected in line with the elements of individual oral consent that are outlined in the TCPS 2 and appropriate in the culture she was working in, that community consultation was undertaken, that traditional knowledge is not being compromised and that recruitment was undertaken ethically.

However, there was no explicit individual consent for the use of participant's names alongside their quotations. TCPS 2, 2010 Article 5.5 states "Researchers who have not obtained consent from participants for secondary use of identifiable information shall only use such information for these purposes if the REB is satisfied that:

- (a) identifiable information is essential to the research;
- (b) the use of identifiable information without the participants' consent is unlikely to adversely affect the welfare of individuals to whom the information relates;
- (c) the researchers will take appropriate measures to protect the privacy of individuals, and to safeguard the identifiable information;
- (d) the researchers will comply with any known preferences previously expressed by individuals about any use of their information;
- (e) it is impossible or impracticable to seek consent from individuals to whom the information relates; and
- (f) the researchers have obtained any other necessary permission for secondary use of information for research purposes."

Since both conditions b and c of Article 5.5 are not met, **The REB requires that identifiers (names and closely identifying information) be removed from the dissertation unless**

- 1. those people quoted have given documented consent to be identified,**
- 2. the quotations are found in public records or**
- 3. those quoted are public figures associated with public, political or corporate institutions.**

Based on the enquiry undertaken and in light of the incorrect advice given to the student in 2010, if the above requirement is fulfilled, I believe this dissertation meets the ethical standard of the TCPS2 2010.

Sincerely

Diane Martz

From: Martz, Diane <diane.martz@usask.ca> ★	
Subject: Ethical Review, P.Sanz Dissertation	2019-04-26, 4:30 p.m.
To: Crowe, Trevor ★; Smith-Norris, Martha <martha.smith@usask.ca> ★	
Cc: Wason-Ellam, Linda <linda.wason-ellam@usask.ca> ★; Thompson, John <jrt368@mail.usask.ca> ★; MacKay, Gail <gail.mackay@usask.ca> ★; Reymond, Nicholas <nick.reymond@usask.ca> ★	
Good afternoon Dr. Crowe and Dr. Smith	
Attached is a letter regarding to outcome of my ethical review of P. Sanz Dissertation and the notice of required changes to the Dissertation.	
Linda and John, please forward on to Penelope.	
Hope everyone has a great weekend.	
Regards, Diane	
Dr. Diane Martz, PhD, Behavioral REB Chair Thorvaldson Building, 110 Science Place University of Saskatchewan Saskatoon, SK Canada S7N 5C9 Email: diane.martz@usask.ca	
> 1 attachment: Ethical Review of Sanz Dissertation and Methods.docx 16.2 KB	

APPENDIX C

Chronology of Events in the Canatuan Case Study

Date	Document	Content
Pre-Spanish Period	Fieldnotes July 2004	The diaspora of the Subanon began with the encroachment of Spanish forces (present day Zamboanga City). Headed by Timuay Tabunaway, the Subano settled first in Buluan. The sons of Tabunaway decided to migrate anew. Moong went towards Siocon.
		Timuay Manglang, the son of Moong who was one of the sons of Tabunaway, established the Subanon settlement in Siocon. According to Gulang Gukom Noel Lima, Siocon was the seat of Subanon government during Apo Manglang's time
		There was a time of Timuay Manglang that an epidemic almost wiped out the tribe. Timuay Manglang went up to Mt. Canatuan and offered the Subano's highest traditional ritual in order to save his tribe from the epidemic. Because of the prayer and pact with Apo Sanag which was made in Mt. Canatuan, his tribe was immediately saved from the epidemic with the promise that they will take care of the mountain. Thereafter Mt. Canatuan became a sacred place.
1986		Gold production in Barangay Guinabucan started to dwindle. As a result, miners were forced to abandon the area and transferred to other mining areas in Zamboanga peninsula. Sometime this year, a group of gold panners explored the Canatuan area and started gold panning and sluicing activities along the Lumot and Baluboan Creeks (interview Bulagao 2004, fieldnotes 2004).
1986 - 1990		Small-scale miners from neighboring municipalities and even as far as Davao and Luzon began arriving in droves arrived in Canatuan. The area that previously had a residual forest and home to Canatuan Subanon was transformed into a gold rush area. It was estimated that the Canatuan population reached more than 8,000.
1987	TVI Pacific Audited Financial Statements, May 13, 1997 by KPMG	TVI was incorporated under the ABCA on January 12, 1987, as Travel Ventures Inc. On October 20, 1992, the Company changed its name to TVI Copper Inc. and on July 11, 1994, its name was changed to TVI Pacific Inc.

1989	L. Tala, personal communication, 2007	Small-scale mining activities intensified over the Canatuan area. Their entry caused apprehension among the Subanon communities. According to Timuay Lando Tala, his father who was the Timuay then and the bogolal in Canatuan talked to the leaders of the small-scale miners and expressed their opposition. They filed a petition to the local government but was not heeded.
		The Subanon community in Canatuan applied for a Community Forest Stewardship Agreement (CSFA) with the Department of Environment and Natural Resources.
	.	For the first time, the Subanon community held a picket against the entry of small-scale miners. They filed a petition to the local government but were not heeded
		TVI Pacific began its mineral exploration business in 1989. Its initial activities were in Saskatchewan and British Columbia, though the property in Saskatchewan was abandoned in 1991. Additional future exploration will be undertaken on the Anyox property located in British Columbia, although no work program was planned.
29 Oct 1990		Romeo V. Basque filed a Declaration of Location (DOL) with the MGB Office of Mining Recorder, Zamboanga City
3 Dec 1990		Romeo V. Basque applied for a Prospecting Permit covering an area of 486 hectares previously covered by the DOL located within the Central Zamboanga Forest Reserve established under Proclamation No. 173, dated February 13, 1967.
1991		Upon knowing that the mining area in Canatuan was declared as mineral land and was applied with prospecting permit by Basque, the Subanon leaders were worried. What they did was to consult with the Office of the Southern Cultural Community (OSCC), which also provided them with uncertain explanations.
8 April 1991		A royalty agreement was executed by and between Benguet Corporation and Mr. Basque covering one (1) mineral claim of 81 hectares and the latter's Prospecting Permit application
12 July 1991		An Environmental Compliance Certificate (ECC) for the "Gold Exploration Project" was issued by then DENR Undersecretary Delfin Ganapin Jr.
8 October 1991		Prospecting Permit No. DENR-IX-0004 was granted to Romeo V. Basque
13 December 1991		The Siocon Subanon Association Inc. (SSAI) was registered with the Securities and Exchange Commission (SEC).
10 April 1992		Benguet Corp./R. Basque filed a Mineral Production Sharing Agreement (MPSA) application for an area of 1,695 hectares including the conversion of R. Basque's Prospecting Permit to MPSA. The original area was reduced to 508 hectares in September 2002 upon the request of Benguet Corp.

1992		Due to the growing tension over the area, the Siocon Subanon Association Inc. (SSAI) in Canatuan, together with Siocon Federation of Subanon Tribal Council (SFSTC) based in the town of Siocon and Western Zamboanga Peninsula Subanon Association Inc. (WESPESAI) based in Sitio Tiling, Malubal, R.T. Lim, Zamboanga Sibugay registered their strong opposition against small-scale miners led by Romeo V. Basque
1993		The DENR issued a Department Administrative Order (DAO) No. 2 series of 1993. This is an attempt by the government to substantiate Section 22, Article 5, Article XII and Section 6, Article XIII of the 1987 Constitution which provides for the recognition and protection of the rights of the Indigenous cultural communities over their ancestral lands. At this time, the Subanon community was thinking to transform its CFSA into Community Ancestral Domain Claim (CADC) under the name of their association.
1993	TVI Pacific Annual Information Form, March 25, 2010	TVI learned about Benguet's mining property in Canatuan and entered into an option agreement with Benguet and Mr. Basque in 1994.
23 March 1993		SSAI passed a resolution opposing the MPSA application by the original claim holder, RV Basque, signed by its 609 members.
		Timuay Juan Ben Alog, chieftain of Mount Canatuan, wrote a petition to MGB for the cancellation of Basque's prospecting permit because "he cut trees, collected rentals from stores and from small miners, and that Basque has pending criminal case along with his personal body guard." Said petition was signed by more than 600 residents of Canatuan and copies of this were furnished to President Ramos, Vice President Joseph Estrada, Governor Isagani Amatong of Zamboanga del Norte, and to former Mayor of Siocon Jesusa Pastor.
25 March 1993		The Siocon Subanon Association Inc., led by Alog, also wrote a petition to DENR protesting the claim of Basque again.
27 August 1993		Area clearance was issued by the Forest Management Services, DENR, Region IX over areas covered by APSA No. 0000-14-IX pursuant to Section 4, DAO No. 82 Series of 1990
13 October 1993		Notice of publication of APSA No. 0000-14-IX was sent to Benguet Corporation for publication pursuant to Section 6, DAO No. 82, Series of 1990
31 October to		Publication of the Notice of Application (APSA No.0000-14-IX) in Malaya Newspaper pursuant to Section 6, DAO No. 82, Series of 1990. Posting in the bulletin boards of Siocon Municipality Hall and CENRO, Siocon, ORED, DENR, Regional IX; MGB, DENR, North Avenue, Quezon City

6 November 1993		
20 January 1994		An application for CADC was filed by SSAI to the Provincial Task Force on Ancestral Domain (PSTFAD)
Jan. 20, 1994	TVI Audited Financial Statements, 1997	TVI Resources entered into an exploration agreement with Benguet Corporation with the option to purchase a 100% interest in 486 hectares of the Canatuan property located near Siocon, Zamboanga del Norte. The property is subject to an existing 4% royalty against net realizable value (essentially net smelter return less government royalties and taxes). In December 1996, the company acquired from the royalty holder a 3% royalty interest, leaving the holder with a 1% royalty. The purchase price was US \$1.4 million, payable as to US \$1.0 million in cash and 434,782 common shares of the company, subject to regulatory approval. The cash payment was made in 1996.
21 January 1994		Registration of Articles of Incorporation and By-laws of TVI Resource Development Philippines, Inc.
3 February 1994		A Memorandum of Agreement was signed by and between R. Basque, Benguet Corp., Daphne D. Absin et.al. representing the small-scale miners of Canatuan, and RED Leonito Umali of DENR – R.O. IX
6 October 1994		Exploration Agreement with Option to Purchase between Benguet Corporation and TVI Resource Development Phils., Inc., a corporation duly organized and existing under Philippine laws and registered with the SEC, regarding the MPSA application filed by Benguet Corp/R. Basque
22 May 1994	Minutes of the Special meeting of the Board of Directors of SSAI Resolution No. 10 s. 1994 ³¹⁰	Resolution to request the community environment and natural resources office (CENRO) Siocon, ZDN for identification, delineation, and recognition of our ancestral land and domain claims at Sitios Paduan, Canatuan, Cosan, Gumibu, Ginubang , Gulangan, and Bolubuan, Tabayo, ZDN. Cites: Executive order 192 – empowers DENR to exercise exclusive jurisdiction on the management R.A. 7585 – provides due recognition of ancestral domains and other customary rights in protected areas
23 Dec 1994		Community Forum on Ancestral domain held in Canatuan ³¹¹

³¹⁰ Based on reports and documents submitted by NCIP staff as filed in the CADC-113 Claim Book

³¹¹ Based on reports and documents submitted by NCIP staff as filed in the CADC-113 Claim Book

7 Nov 1995		The barangay council of Makiang, a lowland barrio traversed by the Siocon River, passed a resolution requesting President Fidel V. Ramos to immediately cancel the exploration permit of TVI and stop all exploration activities
27 Dec 1995	DENR-IX-A, Forest Management Service NFD (CFSA-Appl) Memo addressed to the Chief, ISF Section DENR R9, Zambo City Signed by Rodolfo U. Aradanas ³¹²	Request to Convert the application of SSAI for Community Forestry Stewardship Agreement (CFSA) into Community Ancestral Domain Claim (CADC).
5 Feb 1996	Addressed to the Chairman of the Provincial Special Task Force on Ancestral Domain ³¹³	SSAI urging the PSTFAD and the Provincial Environment and Natural Resources office (PENRO) for the finalization of their request to convert the Community Forest Stewardship Agreement (CFSA) in to CADC.
		MPSA No. 054-96-IX between the government and Romeo V. Basque/Benguet Corp. was approved, over an area of 508 hectares located at Canatuan, Brgy. Tabayo, Siocon, Zamboanga del Norte
5 April 1996		The Indigenous Cultural Communities Economic Development Foundation Inc. represented by 20 leaders from Indigenous communities, Moro, farmers, women and fisherfolks from the Barangays of Makiang, D. Reconalla, Tabayo, Candis, Pisawak and Bulacan in Siocon, Zamboanga del Norte also passed a resolution requesting President Fidel V. Ramos to immediately cancel the exploration permit of TVI and stop all exploration activities
23 October 1996	TVI Pacific Annual Report, 1997	MPSA No. 054-96-IX between the government and Romeo V. Basque/Benguet Corp. was approved over an area of 508 hectares located at Canatuan, Brgy. Tabayo, Siocon, Zamboanga del Norte. With TVI purchasing the Canatuan property from Basque/Benguet Corp in 1994, the company was able to process the completion of project financing for Canatuan to commence and also allowed bullion production at its Canatuan pilot plant to start shortly after. As of March 24, 1996, its environmental compliance certification (ECC) has not yet been issued by the Philippine Government.

³¹² Based on reports and documents submitted by NCIP staff as filed in the CADC-113 Claim Book

³¹³ Based on reports and documents submitted by NCIP staff as filed in the CADC-113 Claim Book

December 1996	TVI Pacific Audited Financial Statements, May 13, 1997	The cash payment of US \$ 1.0 million in cash and 434,792 shares of the company was made to Benguet Corporation in 1996, which totaled a purchase price of US \$ 1.4 million for its Canatuan property. TVI Resources acquired from the royalty a holder a 3% royalty interest, leaving the holder with a 1% royalty.
3 April 1997	TVI Press release April 3, 1997	<ul style="list-style-type: none"> • TWO NEW GOSSAN AREAS DISCOVERED AT CANATUAN Within 1 kilometre of the Canatuan Deposit referred to as the SE and NW Canatuan targets where mineralized gossan boulders in the laterite profile appear to be derived from the main Canatuan deposit. As of the end of February, a total of 275 test pits had been completed. Many assays are still pending, especially for the NW target, but results to date indicate the potential for up to 250,000 tonnes of additional gossan resources, representing a 20 to 30% increase in oxide mill feed compared to the Canatuan feasibility study. • INITIAL ASSAYS INDICATE STRONG GOLD AND SILVER MINERALIZATION Gold and silver grades may be similar to those of the Canatuan gossan reserve (3.5 g/t Au and 120 g/t Ag). • POTENTIAL FOR ADDITIONAL SULPHIDE RESOURCES Massive sulphide mineralization and gossan along strike suggests that Canatuan may be only one of a series of similar deposits in the same favourable stratigraphy.
May 20, 1997	TVI Pacific Annual Report 1997	The small-scale pilot plant began operating in November 1996 and TVI has been pouring bullion weekly at this 50 tonnes per day plant for several months. The primary purpose of this pilot plant is to act as a small-scale "dry run" for the full-scale plant, while at the same time allowing testing of metallurgical parameters of the deposit and serving as a training site for the full-scale plant. This plant is also generating some early cash flow from bullion sales.
27-31 May 1996		The Commission on Development and Social Concern of the National Council of Churches in the Philippines (NCCP) initiated a Fact-Finding Mission to Siocon particularly Canatuan. One of its findings was that the resistance of the people was strong and that there was great neglect and failure on the part of the government to act on the Subanon's claim for ancestral domain. It recommended the immediate cancellation of TVI's mining exploration permit; concrete action of the mining permit application of small scale miners; and the investigation of alleged collaboration of TVI and the DENR
6 June 1997		The DENR granted an ECC for the "Canatuan Mining Project" of TVI Phils. Inc.
16 June 1997		A Deed of Assignment over said MPSA area was executed by and between Mr. R.V. Basque-Benguet Corp. and TVI Resources Development Phils. Inc. (TVI), assigning, transferring and conveying to the latter all the rights, interests, and obligations under the MPSA

27 October 1997		Republic Act 8371 also known as the Indigenous Peoples Rights Act (IPRA) was promulgated emphasizing the provision that only the legitimate owner of the land, as accorded by law, has the right to determine how the resources within its rightful boundary be exploited. In addition, any developmental entity who desires to exploit the resources should seek Free Prior Informed Consent (FPIC) from the legitimate owners of the land the community in general
29 Oct 1997	NCIP CADT No. R09-CADT-SIO-0403-0005 signed by Victor O. Ramos, DENR Secretary; Virgilio Q. Marcelo, Undersecretary for Field Operations; Antonio G.M. La Vina, Undersecretary for legal and legislative affairs and attached agencies; Romeo t. Acosta, Head, Community Based Management Office ³¹⁴	<p>Total area: 8, 213.5020</p> <p>Sitios Mambong, Poduan, Malusok, Binukol in Barangay Candiz, Sitios Canatuan, Cosan</p> <p>Individual beneficiaries: 1,144</p> <p>“NOW THEREFORE, the Subanen Indigenous cultural community is hereby issued this Certificate of Ancestral Domain Claim, which identifies and recognizes its claim and which shall serve as a basic document for the perfection of its rights over the area so identified in accordance with provision of the Constitution and relevant laws of the Philippines.”</p>
January 1998	TVI Annual Report, 1998	TVI halted its Canatuan production in 1998 despite high content of gold from its Canatuan pilot plant due to the low gold metal price. At this time, TVI was also able to generate cash flow from two sources: 1) EDCO developed into a commercial operation and are working under contract in the Philippines, China and Taiwan. TVI will continue to expand EDCO’s commercial operations, while maintaining a supply of rigs and crews for its own drilling activities. 2) The upgraded pilot plant at Canatuan, working at a capacity of 80 tonnes per day, had provided TVI with income while also contributing to the Company’s base of experience in establishing the practical metallurgical and operational parameters of the full-scale project.
14 May 1998		The Deed of Assignment was approved by DENR and the MPSA was recorded in the name of TVI
17 August 1999		Canatuan Small Scale Miners Multi-Purpose Cooperative (CSSMMPC) staged a protest action against the entry of drilling equipment of TVI

³¹⁴ Based on reports and documents submitted by NCIP staff as filed in the CADC-113 Claim Book

27 August 1999		A temporary restraining order was issued to small scale miners enjoining their cooperative to “cease and desist” from obstructing the trail leading to the areas where the drilling machines are assigned to drill.
17-27 Aug 1999		Members of CSSMPC staged a human barricade to prevent TVI from conducting a new round of exploration for two unnamed Japanese investors
23 Aug 1999		TVI filed an injunction with prayer for preliminary injunction and/or restraining order plus damage and Attorney’s fees against leaders of the small-scale miners’ cooperative at the Regional Trial Court (RTC) of Siocon Branch 27.
30 August 1999		SSAI staged a human barricade to prevent the entry of TVI equipment.
6 September 1999		Violent dispersal of 50 Subanen protestors against the resumption of drilling activities of TVI.
12-16 Sept 1999		Support groups DCMI, DOPIN SAC, TRIPEACEDEV and other visited Canatuan
30 August to 28 October 1999		The Siocon Subanon Association Inc. (SSSAI) led by Timuay Juan “Ben” Alog staged a human barricade to prevent any drilling activities of TVI. The IP asserted their rights through their occupation over the area since time immemorial and their possession of certificate of ancestral domain claim (CADC)
28 October 1999		Harassment and second round of violent dispersal perpetrated by the Manager of TVI together with around 40 members of PNP. The other perpetrators were 14 members of CAFGU under the 33 rd IB of Phil. Army based in RT Lim, Zamboanga del Sur
2000		Timuay Juan Alog wrote to the Chairperson of MGB’s Provincial Mining Regulatory Board to defer any Minahang Bayan application of the small scale miners within the CADC without the free and prior informed consent of the CADC holders.
January 2000		Phil. Government awarded the company with a four year tax holiday and may be extended for another two years. TVI Pacific Inc. sold its 25% interest in Lafayette Mining NL of Australia’s Rapu Rapu Gold and silver mining project
November 4-14, 2000		Mr. Orlando Malang of SSAI went to Canada for a 10-day tour with a representatives of the Committee on Mining Issues of the Diocese of Dipolog (DIOPIIM), and of the Philippine Indigenous Peoples Links. The

		group sought support for the Subanon's ancestral land rights and lobbied against the mining exploration activities of TVI. ³¹⁵
2001		Canatuan Agro-Industrial Multi-Purpose Cooperative through TVI's connection in the Cooperative Development Authority (CDA) Central Office accessed one million pesos grant. This fund was invested by the cooperative. Based on the employees' statements, the company has not been paying its workers for almost seven months.
23-27 July 2001		Mr. Orlando Malang presented to the 19th Session of the United Nations Working Group on Indigenous Populations, held in Geneva, Switzerland, a paper against TVI of violation and abuses of basic rights as Indigenous peoples; militarization and acts of violence and intimidation; imposing a cruel blockade barring even food and essentials to enter; blocking health services; blocking religious practices; blasphemy within their sacred ground and breaking the Subanon ritual ³¹⁶
6 August 2001		The Department of Foreign Affairs acting on a letter from the Office of the United Nations and other International Organizations, sent a letter to the Commission on Human Rights in the Philippines to investigate the situation of Canatuan based on Mr. Malang's statements in the United Nations
15 October 2001		Atelano Pension House Meeting: a Resolution to support TVI was proposed by pro-TVI Tumangkis group but Alog group walked out and should have prevented approval of the Resolution because of lack of quorum.
21 October 2001		A Memorandum of Understanding is made and entered into by and between the Siocon Subanen Association Inc and TVI Resource Development Phils. Inc. with Tumangkis group dominantly signing the MoU.
25 November 2001		A Subanon lawyer who was formerly the consultant of the office of the Presidential Adviser on Special Concerns-IP Matters, initiated a meeting for the election of new officers of SSAI which was supposedly chaired by Timuay Alog. Alog, Malang et.al. did not attend. In that meeting, a new SSAI was organized with Jolito Tampusao as the chairperson and Marciano Sapien as member of the Board of Trustees. Juan Alog and Orlando Malang were not informed of the said election.
2002	TVI PACIFIC INC. MANAGEMENT DISCUSSION AND ANALYSIS	TVI was successful in negotiations with various Philippine government agencies and NGO's in the creation and implementation of a regional economic development plan for the area close to the Company's Canatuan project in Mindanao. Central to this plan is the successful re-commissioning and start-up of the existing pilot plant at Canatuan in December, 2002. There was no production in 2002. studies now underway.

³¹⁵ Source: DCMI and LRC-KSK

³¹⁶ Notes from the Diocese of Dipolog, Ipil, Ozamiz, Pagadian, Iligan and Marawi (Diopim) Committee on Mining Issues (DCMI)

	Year Ended December 31, 2002	
14 January 2002		DENR-Siocon led the dismantling of the 18 cyanide mini-processing plants in Canatuan
23 January 2002		The Commission on Human Rights Region IX Director sent a letter to Orlando Malang to inform that the CHR team would be there in Canatuan to clarify some points based on his statement in the UN.
11 February 2002		Siocon Subanon Association Inc. (SSAI) through its President Timuay Juan Ben Alog signed a petition addressed to the Land Bank of the Philippines in Zamboanga and Dipolog City to deny any loan from the above-mentioned cooperative. A copy was also sent to the Cooperative Development Authority office in Region IX to deny the request of the cooperative for a Certificate of Good Standing. But before the petition reached to the office of CDA, the certificate had been already issued but the loan did not prosper in Land Bank.
13 March 2002	Ambush -	
27 May 2002		The Commission on Human Rights Region IX after conducted investigation in Canatuan reported that the problem in Canatuan stem from the following: a). The approval of the MPSA by DENR on Oct. 23, 1996 covering an area of 508.34 hectares within the ancestral land of the Subanon in Tabayo, Siocon, Zamboanga del Norte; b). Due to the violation committed by TVI and its personnel which include the company guards and the Special Civilian Armed Auxiliary (SCAA) who are assisting the TVI Company guards. C. The failure of TVI to obtain a true pre-prior consent from the Indigenous peoples as the law requires.
27 May 2002		A manifesto of SSAI (2) signed by SSAI's president was issued expressing the need to dismantle illegal mining operations and their structures in their area and complete to stop to any further denudation and destruction to the environment and expressing the need for a professional, responsible mining activities be allowed in the area
12 July 2002		Formal formation of the Subanon Tribal Council of Elders/Leaders held in the Municipal Training Center, Poblacion Siocon, ZDN. ³¹⁷ Facilitated by the NCIP Zamboanga del Norte
July 2002		Orlando Malang, SSAI secretary went to UNWIGP 20 th session and disclosed that their situation is not progressing, because even though GMA went to Canatuan and recognized their land as their ancestral domain, the government is doing nothing to push away TVI from Canatuan.
27 July 2002		The COE of CADC-113 formally filed a complaint through their Council Resolution No. 5 series of 2002

³¹⁷ See Declaration signed on July 12, 2002. Among the signatories are Jolito Tampisao, Timoay Jose Ben Alog, Orlando Malang etc.

27 May 2002	Initial Report of On-going Activities: CADC Conversion at Canatuan addressed to Atty. Evelyn Dunuan, NCIP Chairperson ³¹⁸	<ul style="list-style-type: none"> • Orders from the central office to prioritize CADC 113 • Meeting was called with CoE - they were unaware of the President's decision. •
31 May 2002		PGMA made a historic visit by visiting a sitio that is Canatuan to give a Certificate of Recognition of Ancestral Domain addressed to the "Subanen Tribe of Siocon, Zamboanga del Norte Represented by the Head Claimant Timuay Juan A. Alog"
	Certificate of Recognition of Ancestral Domain Area ³¹⁹	Subanen Tribe of Siocon, Zamboanga del Norte Represented by the Head Claimant Timuay Juan A. Alog
	Ofelian Lingating's report to Dunuan on the Pre/During/Post Presidential Visit Activities at Canatuan ³²⁰	<p>"It was the first sitio visit of the president in the history of the province...."</p> <p>"Since the Subanen of Canatuan Commissioner Lingating has to meet them separately and devise a measure to align their interests in the pursuit of their Ancestral Domain. For the reason of the President's visit, both agreed to set aside first their personal ire, to come up with a unified presentation of their request for the recognition of their ancestral domain, then resume their talk after the President leave the area."</p> <p>"One hour before the President arrives, there was already a unified statement of their problem and request for the release of their Ancestral Domain Certificate of Recognition as proof of their empowerment.</p>
19 June 2002	Progress Report on Ancestral Domain activities at CADC 032 and 119 by the Regional Survey Party of NCIP 9 Addressed to Atty. Evelyn S. Dunuan, NCIP Chairperson ³²¹	<p>"The IP claimants of the said CADC-032 was really surprised when they were discovered that there were irregularities on the conduct of perimeter survey on their ancestral domain claims.'</p> <p>"With regards to the CADC-113 in Siocon, ZDN, the DENR will conduct the perimeter survey under the supervision of the NCIP."</p>

³¹⁸ Based on reports and documents submitted by NCIP staff as filed in the CADC-113 Claim Book

³¹⁹ Based on reports and documents submitted by NCIP staff as filed in the CADC-113 Claim Book

³²⁰ Based on reports and documents submitted by NCIP staff as filed in the CADC-113 Claim Book

³²¹ Based on reports and documents submitted by NCIP staff as filed in the CADC-113 Claim Book

		The Chief of Regional Survey Party...temporarily suspended the activities in Canatuan for security reason on 11 June 2002.
12 July 2002	NCIP Region IX ZDN - PO wrote to Forester Carlito Tuballa, CENRO Officer in Siocon, ZDN ³²²	Urging CENRO to send a representative in the “formal formation of the Subanon Council of Elders/Leaders of CADC No. 113 to be held today at 9:00 am at the Municipal Training Center, Pob. Siocon, ZDN
	Subanen Council of Elders Resolution No. 1 requesting the NCIP to facilitate the conversion of CADC No. 113 into CADT ³²³	<p>“...Whereas, the same organization had paved the way for the unity of the CADC holders whose leaders were once fragmented due to the influence of some vested interest groups.”</p> <p>“Whereas, to fulfill the needed realization for the perfection of exclusive control and management of the ancestral domain by themselves, as mentioned by Jolito Tampisao, it was</p>
	Subanen Council of Elders Resolution No. 2 confirming the authentication of all documents presented by ZNSPTF to the CADC Holders of CADC No. 113 ³²⁴	“Whereas all documents submitted to the DENR prior to the enactment of RA 8371 leading to the award of CADC-113 to the concerned IP applicant, were turned over to the NCIP during the time of Secretary Antonio H. Cerilles.”
	Minutes of the Joint-Conference of CADC 113 Elders/Leaders and NCIP IX Validation Team held last July 12, 2002. Report written by Joseph C. Yebanes	<p>Meeting started at exactly 1:30 pm.</p> <p>DENR “informed the group that the survey activity was 75% completed as of that date....Their survey team had already reached 10 reference points and the perimeter survey had likewise reached to 45 kilometers....Cannot fix the exact date of its completion because of the bad weather conditions.... The team is hoping...to complete the job by 17 July 2002.</p>

³²² Based on reports and documents submitted by NCIP staff as filed in the CADC-113 Claim Book

³²³ Based on reports and documents submitted by NCIP staff as filed in the CADC-113 Claim Book

³²⁴ Based on reports and documents submitted by NCIP staff as filed in the CADC-113 Claim Book

	CDO III/SPTF Secretary Designate ³²⁵	<p>NCIP confirmed DENR's update...and also disclosed that there were "complaints from the CADC holders who joined the survey that their identified traditional boundaries was not followed by the DENR Survey Team".</p> <p>Timoay Juan Alog asked for clarifications why DENR Survey Team did not follow the traditional boundaries identified by their guides and expressed his suspicion that the total land area will be reduced instead.</p> <p>DENR survey team explained that "they did not do anything wrong because they were only following orders. Their task was to conduct relocation survey on CADC-113 and the technical description of the approved CADC Map was their reference".</p> <p>On the formation of COE</p> <p>The NCIP Zamboanga del Norte provincial officer "personally handled the facilitation of the proposed plan to formally form the Council of Elders/Leaders of CADC-113....He "explained that it was not enough that they have expressed and showed willingness to reunite themselves during the visit of PGMA and before Commissioner Lingating, there was still a need to let things happen in a proper way and in accordance with the customary processes, considering that they are IPs".</p> <p>"The group agreed to submit their respective recommendees who were to compose the Council of Elders/Leaders of CADC-113. Timoay Juan Alog submitted 15 names, and Jolito Tampisao and Marciano Sapien submitted also 15 names. The total number of the council is 30.</p>
12 July 2002		Formal formation of the Subanon Tribal Council of Elders/Leaders held in the Municipal Training Center, Poblacion Siocon, ZDN. ³²⁶ Facilitated by the NCIP Zamboanga del Norte
19 July 2002	The COE of CADC-113 formally filed a complaint through their Council Resolution No. 5 series of 2002 ³²⁷	Resolution informing the office of the NCIP that the survey team of the DENR had not properly followed the guide, thus, not getting the exact location of the claimed area of CADC No. 113.
22 July 2002	Narrative accomplishment report on the Conversion of CADC Nos. 032 and 113	May 22-25, 2002 – Start of activities in CADC-113

³²⁵ Based on reports and documents submitted by NCIP staff as filed in the CADC-113 Claim Book

³²⁶ See Declaration signed on July 12, 2002. Among the signatories are Jolito Tampisao, Timuoy Jose Ben Alog, Orlando Malang etc.

³²⁷ Based on reports and documents submitted by NCIP staff as filed in the CADC-113 Claim Book

	<p>in the Municipalities of Gotalac and Siocon, ZDN respectively prepared by Joseph C. Yebanes, CDO III/Member, ZN SPTF³²⁸</p>	<p>- conduct of genealogy data</p> <p>On May 31</p> <p>6-8 am – The NCIP Commissioner, and the NCIP Zamboanga del Norte provincial officer, discussed the presentation of demands to be addressed to the President:</p> <ol style="list-style-type: none"> 1. The petitioners will write a letter to the UNCHR that complaint of the Subanon is now being addressed by PGMA 2. That the case filed in DENR re: cancellation of TVI MPSA should be settled through just process 3. That the CADC holders be given a fund for livelihood, farm-to-market road, and other infrastructural projects. 4. That the CADT will be awarded before July. 5. That the TVI checkpoints that block the roads be dismantled if not transferred to a place that will not inconvenience the people. <p>8 – 10:30 – With the presence of the NCIP Commissioner, NCIP IX ZDN Provincial Officer facilitated a dialogue between Alog and Sapiang-Tumangkis group.</p> <p>- The draft of the presentation of demands was presented to the group.</p> <p>- Sapiang and Tumangkis “agreed on the draft demands except for the dismantling of the checkpoints of TVI. The presentation of demands was equally assigned to Marciano Sapiang and Orlando Malang.</p> <p>GMA’s message:</p> <ol style="list-style-type: none"> 1. I am happy that you are united. 2. I came here not to solve the problem of TVI, but meet the Lumads. 3. The NCIP not an implementor, but a Policy Advocate only. DENR is the implementor because they have the capacity, experience and expertise. <p>7 pm – NCIP Commissioner met Alog and Sapiang for an evaluation meeting, which he, himself, presided. “TAA Ponciano Agbadan opened that Tumangkis and some others were rebels. They surrendered to General Abaya sometime in 1980s but they were not able to avail of the amnesty program of the government. They were charged in court of common crimes, instead of rebellion. It was found that Mr. Elly Comisas and others</p>
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³²⁸ Based on reports and documents submitted by NCIP staff as filed in the CADC-113 Claim Book

		were the complainants and fortunately he was present on that meeting. There was a heated argument between Comisas and the Tumangkis groups, but Commissioner Lingating interrupted and explained the need for reconciliation and unification. Their conflict ended peacefully. Elly Comisas promised to execute an affidavit of desistance. In that instance, they hugged each other for peace.”
27 July 2002		The COE of CADC-113 formally filed a complaint through their Council Resolution No. 5 series of 2002
23 Sept 2002	NCIP Region IX ZDN-PO submitted a report on the meeting with the members of the Subanon Council of Elders of CADC No. 113 ³²⁹	<p>“The DENR survey team totally disregarded the supposed boundaries which they have traditionally identified. They have attempted to assert for it, but still the DENR surveyors ignored them of their demands.”</p> <p>“...They are aware that the survey made by DENR has long been completed and that they have been expecting the NCIP Regional Office No. IX through its RAD Team and Survey Party to conduct the necessary validation for they are certainly doubtful of the results of the DENR survey of the DENR survey....They are also aware that community validation is among the regular processes to ascertain the correctness of the survey of any Ancestral Domain....”</p>
31 Oct 2002	Work Order No. 10-005-02 was issued by NCIP Chairperson to co the Regional Survey Party to Conduct re-survey/perimeter survey of the ancestral domain claim of Siocon Subanon Association Inc. (SSAI) located at Siocon, ZDN ³³⁰	<p>It includes</p> <ul style="list-style-type: none"> a. Inspection of corner points/markers and natural features b. Survey execution c. Preparation of survey returns d. Preparation and transmittal of reports e. List of claimants <p>Instructs the team to operate under a “Centralized Scheme of Survey Operation. “The survey returns shall be forwarded immediately to the PROMOST for verification and approval. Instructions should emanate from the PROMOST – the office responsible for the overall project administration and/or supervision.</p>
20 Nov 2002	Minutes of the Meeting of NCIP Co-survey party, NCIP R-IX Survey Party and NCIP Region IX ZDN- PO.	<p>Updating on the recently completed DENR survey of CADC 113</p> <p>Observation of the NCIP team:</p>

³²⁹ Based on reports and documents submitted by NCIP staff as filed in the CADC-113 Claim Book

³³⁰ Based on reports and documents submitted by NCIP staff as filed in the CADC-113 Claim Book

	Reported by NCIP Region IX ZDN - PO. ³³¹	<ol style="list-style-type: none"> 1. There is no established concrete monument in every corner, except on the control points. 2. The corner descriptions are not actually appearing on the around as indicated on the approved plan. 3. The marks on corners indicated on the approved plan of the DENR does not conform with the actual corner markers on the ground. 4. Some corner markers as indicated on the approved plan are missing. 5. Activities are going smooth with the cooperation of the IPs, however, security forces from the AFP may be needed very soon as necessity arises. 6. The CADC holders has remain firm of their position to include the area missed by the DENR during their survey. 7. Target date of completion of the survey activities may not be realized as indicated on the Work Plan or as expected due to the many hindering factors e.g. climatic conditions, terrain etc.
Nov 30 – Dec 20, 2002		NCIP survey in Canatuan ³³²
23 Dec 2002		NCIP survey activity was completed ³³³
26 December 2002		TVI employees and other hitchhikers were ambushed by MILF “lost command”.
28 Dec 2002	<p>Accomplishment report of the Regional Survey Party Region IX³³⁴</p> <p>Filed by:</p> <p>The Chief of Party; and four other members of the Regional Survey Party Region IX</p>	<p>On Existing Monuments</p> <p>“...Found out that no monuments were actually installed on CADC by DENR and that tree markers do not conform on the actual ground as appearing on the approved plan.</p> <p>On Self-Determination</p> <p>“The IPs in their quest for better life was taken advantage by the mining company...causing a division or faction between the Council of Elders and the IPs.”</p> <p>“Pro-mining Council of Elders and IPs were utilized by the mining company to destabilize every decision to be decided by the Elders and IPs. At present, the TVI mining is operating again event though without a permit</p>

³³¹ Based on reports and documents submitted by NCIP staff as filed in the CADC-113 Claim Book

³³² Based on reports and documents submitted by NCIP staff as filed in the CADC-113 Claim Book

³³³ Based on reports and documents submitted by NCIP staff as filed in the CADC-113 Claim Book

³³⁴ Based on reports and documents submitted by NCIP staff as filed in the CADC-113 Claim Book

		<p>because some Council of Elders, IPs and the barangay captain of Tabayo have given their consent for the operation.”</p> <p>On TVIRDP</p> <p>“The mining company is very strict in the passage and entrance of material passing thru their gate. Materials and personnel must first secure a gate pass before leaving and entering the TVI area. Every materials entering their premises must be scrutinized by their armed security banning the entrance of volatile substances and many others. Even the monumentation team was victimized by this mining company because they banned the entrance of the cement to be used in the fabrication of monuments. TVI mining was strongly supported by all Local Government Unit officials from Congressman down to the barangay captain except the Municipal Mayor of Siocon. That is the reason why the IPs can not do otherwise because no support will come from the elected officials.</p> <p>On Security</p> <p>“We were entertained by the Battalion Commander but we were dismayed to hear his statement which he said and I quote “...Actually wala kaming pakialam sa inyo kasi alam natin na ang gobyerno ay pro-TVI and here comes 44th IB giving security to NCIP and the IPs. Ayaw naming na kami pa ang magiging masama kasi TVI has special permit given by the government...”</p>
9 Jan 2003	Three-page special report submitted by NCIP Region IX ZDN - PO to The Director, Ancestral Domain Office, NCIP re: Validation of CADC No. 113 ³³⁵	<p>“Ofelia A. Lingating led the group for the conduct of genealogy survey; Engr. Abdul B. Puengan led the group for actual validation of CADC-113 Map on the ground and NCIP Region XI ZDN - PO led the conduct of IECs, dialogues on Inter-Intra CADC conflict resolutions as well as coordination with other agencies and concerned groups.”</p> <p>On Genealogy Survey of CADC-113</p> <p>It was conducted through a random process. “Using the NCIP IX prepared Genealogy Survey Questionnaire, the survey team was able to take the genealogy data of around 309 households/residents of the area in 5-day period (May 21-25, 2002).”</p> <p>“With the 309 households/residents that were taken with genealogy data, 143 claimed to be original Subanon inhabitants, 68 are IP migrants and 98 are Non-IPs. If we are to recall, prior to the conduct of the genealogy</p>

³³⁵ Based on reports and documents submitted by NCIP staff as filed in the CADC-113 Claim Book

		<p>data gathering among the residents of CADC-113, the office is already in receipt of complaints that there were enlisted beneficiaries during their application for CADC that are migrants in their area, IPs and Non-IPs. It was then with this reason that Mrs. Lingating, the RAD Team head, initiated the use of the random method of genealogy data gathering, considering the same as the only way seen to clear fast the lists of beneficiaries and cope with the 31 May 2002 awarding of CADT by PGMA.”</p> <p>“President Gloria Macapagal-Arroyo visited Canatuan as expected, however, the team conducting the genealogy data gathering failed to finish the job, due to the very limited time left to accomplish the same.”</p> <p>“The results of the genealogy data gathering on the residents of CADC-113 was turned-over by the RAD Team head to the ZDN-SPTF sometimes in the midst of June last year for the finalization of the new list of beneficiaries of CADC-113. There was a difficulty encountered in the process when the results of the genealogy survey were reconciled with the old list, especially that the ones to be enlisted in the new list of beneficiaries are only the real heirs and members of the ancestry. The materials available were not enough to ascertain who really are the real heirs and beneficiaries of CADC-113, so that it was necessary that a comprehensive genealogy survey should have been conducted anew.”</p> <p>The conduct of a complete and comprehensive genealogy survey in order to ascertain the legitimacy of the claimants of any Ancestral domain areas is an appropriate yet difficult, time consuming and expensive process. With the effort of the ZDN-SPTF to lessen the expenses in the finalization of the new list of beneficiaries of CADC 113 considering that there are still many other relative activities to do for the conversion, in coordination with the members of council of elders thereat, this part of the validation process is now almost completed.</p>
2003	TVI Pacific Inc. Management discussion and analysis, year ended December 11, 2002	TVI’s Canatuan plant has achieved production of 60 tonnes per day processing tailings produced by small-scale miners. The Company intends to increase production substantially, and expects to reach a rate of 500 tonnes per day in stages that will be determined in engineering
January 2003	TVI Pacific Annual Report 2004	TVI’s Canatuan plant operated throughout the year, reprocessing tailings it purchased from the artisanal miners who had been operating illegally on the Company’s mineral concession. While this venture incurred an overall loss of \$732,569 for accounting purposes, because a substantial amount of these funds was used to upgrade the existing plant and improve mine infrastructure, it was a major achievement in taking the Company nearer to commercial production and it established the Company’s presence in the region. The supply of tailings was depleted by mid-January, 2004, and the plant has been closed for modification and

		refitting to begin processing at 125 tpd.
28 Jan 2003	Resolution No. 11 series of 2003 of the Subanon Council of Elders ³³⁶	Resolution requesting the NCIP Chairperson through NCIP, Regional Director, the validation of the Subanon communities the result of the recent ground survey of ancestral domain claim (CADC No. 113) at Canatuan, Tabayo, Siocon, ZDN
3 March 2003		<p>NCIP validation of its survey of CADC-113 in Siocon, ZDN³³⁷</p> <p>“...Only the officers and some members of the SSAI led by Timoay Alog were informed and invited to attend in the validation conference....Timoay Alog and Orlando Malang also made it clear to us that they wanted the Survey Plan of CADC-113 be validated only before the officers and elders of their organization the SSAI.”</p> <p>Validation Proper</p> <p>“It was attended by 38 people composed of elders/leaders and members of SSAI led by Timoay Alog and some Non-IP observers. It was noticed, however, that not one of the elders/leaders and Subanen individuals from the group of Jolito Tampusao attended in the conference.</p> <p>“Another document presented for validation and confirmation was a new list of beneficiaries of CADC-113. They approved and confirmed the new list without much examination. They clarified, however, that the said new list of beneficiaries of CADC 113 may still be subjected to future reviews and periodic updating by their elders and leaders to ensure just protection of the rights of the genuine heirs of their ancestral domain.”</p>
10 March 2003	NCIP ZDN – PO report addressed to an NCIP Commissioner re: Conference with Jolito Tampusao Group ³³⁸	<p>Stated the circumstances that Tumangkis visited him in his house in Siay to express that they are:</p> <p>“Treated unjustly and terribly aggravated (all caps); their Chieftain Timoay Alog did not inform them of the said community validation, they felt being dislodged....They got the information about the validation but its (sic) too late and so closed to the given schedule.... They also have expressed sentiments with the NCIP for allegedly tolerating the group Timoay Alog of their attitude towards them.”</p> <p>“(In italics and bold) They strongly demanded to get the Survey Plan of CADC 113 be presented again to all members of the COE formed during the visit of PGMA in Canatuan or to all the CADC Holders, not only with the group of Timoay Alog....Also expressed deep concern over the worsening conflict between the Subanons in the area as many have already died and they cannot avoid suspecting each other’s group.</p>
12 March 2003	Memo Order No. 41 Series of 2003 from	“As stated in your report dated 10 March 2003, the group of Timuay Jolito Tampusao failed to attend the presentation of the map and the census of the claimants due to the failure of Timuay Juan Alog to inform them. In

³³⁶ Based on reports and documents submitted by NCIP staff as filed in the CADC-113 Claim Book

³³⁷ In: NCIP ZDN – PO *special report* addressed to Hon. Norma Mapansa-Gonos re: Validation of the Survey of CADC-113 in Siocon, ZDN dated March 5, 2003.

³³⁸ Based on reports and documents submitted by NCIP staff as filed in the CADC-113 Claim Book

	NCIP Chair Lingating to Dir. Celestino Talpis of Reg 9 Re: Survey Plan Validation of the Ancestral Domain Claim of the Subanen ICC in Canatuan, Siocon, ZDN ³³⁹	<p>this regard, your attention is hereby directed that in fact, it is the responsibility of the NCIP Field Office concerned to issue notices. Subsequently, Resolution No. 5, S-2003 was submitted by the group of Timuay Juan Alog requesting for the issuance of the Certificate of Ancestral Domain Title in the name of the “Subanon Community Residing at CADC-113 as of 1994” and for the conduct of a concise list/census of bonafide claimants.</p> <p>Directed NCIP 9 to conduct the following:</p> <ol style="list-style-type: none"> 1. Presentation of the validated census/list of bonafide claimants of CADC 113 and Survey Plan as prepared by the NCIP; and 2. Facilitate a reconciliation meeting among the groups of Timuay Tumangkis and Timuay Alog to bind an agreement recognizing the survey plan and the census. <p>Note: Lingating knows that Tumangkis is not a Timuay. Did not act on this.</p>
19 March 2003	<p>CADC No. R09-113 Survey Validation Conference³⁴⁰</p> <p>Note: no resolution number</p>	<p>Resolution expressing conformity with the result of the resurvey of CADC No. 113 of the Subanon Tribe of Siocon, Zamboanga del Norte by the NCIP</p> <p>Claimants include Pancho Tacuning Tumangkis, Jolito T. Tumangkis,</p>
	Subanen COE/Leaders (CADC No. 09-113) Resolution No. 3 ³⁴¹	Resolution endorsing to the NCIP the new list of member-beneficiaries of CADC 113 of the Subanon Tribe of Siocon, Zamboanga del Norte
31 March 2003		Survey conducted by NCIP geodetic engineers was approved. ³⁴²
4 May 2003		About 150 Moro Islamic Liberation Front (MILF) guerrillas and Al Queda-linked Abu Sayyaf Group attacked Siocon Municipality at 12 AM. There were 25 civilians, 11 government troops, and 13 rebels were killed during the siege. The public market was burned down and civilians were taken as human shields when rebels withdrew. MILF spokesperson declared that it was a show of force in the area.

³³⁹ Based on reports and documents submitted by NCIP staff as filed in the CADC-113 Claim Book

³⁴⁰ Based on reports and documents submitted by NCIP staff as filed in the CADC-113 Claim Book

³⁴¹ Based on reports and documents submitted by NCIP staff as filed in the CADC-113 Claim Book

³⁴² Based on reports and documents submitted by NCIP staff as filed in the CADC-113 Claim Book

June 2003		Three Subanon petitioners filed a case against respondents - Subanon traditional and invented leaders, and an NCIP provincial officer for the illegal composition of the Council of Elders at Canatuan, Tabayo, Zamboanga del Norte. NCIP Case No. IX-008 was docketed before NCIP Region IX office in Pagadian City, Zamboanga del Sur.
12 June 2003		Certificate of Ancestral Domain Title (CADT) was awarded to Subanon of Canatuan (conversion of CADC 113-IX)
17 September 2003		Assistant to the President for Mindanao visited TVI's tailing impoundment
October 2003		A ritual of thanksgiving led by Timuoy Juan Alog was held in Canatuan for the CADT award. NCIP Region IX ZdN PO was there to witness the event.
November 2003		Memorandum of Agreement was signed by SSAI (2) attended by their designated lawyer Atty. Bernardo and a representative of NCIP regarding the Manifesto 2002.
27 November 2003		TVI confiscated the school building materials built by the Subanon and small-scale miners.
5 December 2003		The MGB based in Zamboanga City inspects the tailings impoundment of TVI
4 February 2004		The 50 MT per day pilot processing plant ceased operations and started rehabilitation and expansion for the 250 MT per day milling capacity
4-6 February 2004		Tupo Nog Pito Kobogolalan Pogokbit Nog Golal Nog Pito Kobogolalan Gonat Sog Pito Kodolongan (The Descendants of the Seven Traditional Leaders of the Seven Rivers) or simply called "pito kodolongan" (seven rivers) held a gukom in this scale after 30 years to deliberate on the issue of Council of Elders.
14 March 2004		The people of Siocon blocked the heavy equipment of ALNOR construction, a subcontractor of TVI. The human barricade was composed of Subanons, Muslims, and Christians. They organized themselves into Save Siocon Watershed Paradise Movement (SSWPM)
17 March 2004		The employees of TVI forced to pass through the picket area, but the people stood hand-in-hand and women as frontliners. Four of the picketers were wounded.
23 March 2004		Fact Finding Investigation and dialogue. The team was composed of representatives from the National Commission on Indigenous Peoples, Commission on Human Rights (Region X) and the Mines and Geosciences Bureau of the Department and Natural Resources

May 2004	TVI Pacific Annual Report (2004)	The Canatuan project began mining raw gossan ore and processing gold and silver-bearing ore at a nominal rate of 125 tpd in mid 2004; was expanded to a nominal 250 tpd in early October, 2004; and by first quarter 2005 was operating at approximately 425 tpd, It is planned that it will be further expanded to approximately 750 tpd, by July 2005 (p. 7).
4 May 2004		The NCIP Chairperson issued an urgent Memorandum requesting for temporary halt of operations of Toronto Ventures Inc. (TVI) in Canatuan, Siocon and the immediate action by the DENR on the pending petition for the cancellation of TVI MPSA filed by Timuay Ben Alog of the Subanen tribe before the office of the DENR Secretary
13 May 2004		E.O. No. 25 series of 2004, Mandating Toronto Ventures Incorporated, based in Canatuan, Siocon, Zamboanga and Norte to Stop all its illegal activities within the Municipality of Tungawan
28 June 2004		Commissioning of the newly rehabilitated ore processing plant and production of gossan pit.
June 2004		NCIP dismissed Case No. IX-008 for the illegal composition of the Council of Elders at Canatuan, Tabayo, Siocon, Zamboanga del Norte with Injunction and Damages against respondents Jolito Tampisao et.al., Juan Ben Alog et.al., and NCIP Region IX ZDN-PO.
12 June 2004		Elementary school was transferred at Skyline which is within the TVI compound
27 October 2004		Expiration of the second renewal of exploration period and Partial Declaration of Mining Feasibility
		Soliling Orlando Malang, Timuay Lambo, and two representatives of Siocon's local government sought an audience with a member of the Canadian Parliament
2005		Several communications from the Gukom Sog Pito Kodolungan and Timuoy Juan Alog and Timuoy Lando Tala to the NCIP demanding the recognition and implementation of the Gukom ruling in 2004 against the CoE went unheeded.
January 1, 2005	TVI Pacific Annual Information Form March 25, 2010	The Canatuan Mine became the first commercial operating mine for TVIRD.
December 22, 2006		NCIP validated Timuoy Juan Alog as traditional leader of the Canatuan area, with Timuoy Lando Tala
March 21, 2007		Gulang Gukom Timuoy Noel Lima validated the bogolal of Timuoy Juan Alog and Timuoy Lando Tala. The traditional governance structure of the Apu Manglang Glupa Pusaka was formed.

June 17, 2007	TVI Apologizes for Human Rights Violations By Tito Natividad Fiel, 22nd June 2007	The top management of the Canadian mining firm TVI Pacific's Philippine partner, Resource Development Philippines, Inc., apologized to the Subanon communities for any human rights violations allegedly committed by the company (Fiel, 2007).
August 2007		Information of discrimination in the context of large-scale mining in Mt. Canatuan was submitted before the United Nations Committee on the Elimination of Racial Discrimination (UNCERD). Included among the several issues raised in the submission is the FPIC violation in the context of rightful representation of traditional leadership which was violated when the CoE was created, with the facilitation of the NCIP. The CERD made its communication to the Phil Government asking clarifications why the CADT is still unregistered, and why the CoE existed in violation of the customary laws of the Subanons. ³⁴³
September 2007		A ritual called "Glongosan Sog Dungos Sog Konotuan" was conducted to manifest the Subanon sentiments against the continued destruction of Mt. Canatuan and the existing problems of the traditional leadership. ³⁴⁴
November 2007		Gathering of Subanon leaders of Zamboanga Peninsula over the issues in Canatuan, held in Pagadian City. Thereafter, the leaders trooped to the NCIP Regional office to demand for the review of the 2006 FPIC Guidelines that violate the IPRA. Another demand was made by the Gulang Gukom for the implementation of the Gukom ruling in 2004 regarding the CoE issue. ³⁴⁵
December 5, 2007		The Siocon Subanos' Certificate of Ancestral Domain Title (R09-CADT-SIO-0403-0005) was officially registered at the Register of Deeds in Dipolog City, Zamboanga del Norte. ³⁴⁶
February 2008		Meeting with UN CERD Experts for another presentation of the Mt. Canatuan issues.
April 9, 2008	TVI Pacific Annual Information Form March 25, 2010	Processing of the gossan mineral reserves ceased. TVIRD's last doré shipment was on April 24, 2008, with one additional shipment in September 2008 from material recovered in cleaning and retiring gossan plant equipment.

³⁴³ Based on the document Chronology of Leadership Dispute in R09-CADT-SIO-0403-0005, Brgy. Tabayo, Siocon, Zamboanga del Norte prepared by LRC-KSK's Zherwina Mosqueda with notes from Penelope Sanz

³⁴⁴ Based on the document Chronology of Leadership Dispute in R09-CADT-SIO-0403-0005, Brgy. Tabayo, Siocon, Zamboanga del Norte prepared by LRC-KSK's Zherwina Mosqueda with notes from Penelope Sanz

³⁴⁵ Based on the document Chronology of Leadership Dispute in R09-CADT-SIO-0403-0005, Brgy. Tabayo, Siocon, Zamboanga del Norte prepared by LRC-KSK's Zherwina Mosqueda with notes from Penelope Sanz

³⁴⁶ Based on the document Chronology of Leadership Dispute in R09-CADT-SIO-0403-0005, Brgy. Tabayo, Siocon, Zamboanga del Norte prepared by LRC-KSK's Zherwina Mosqueda with notes from Penelope Sanz

May 26, 2008		The registered CADT was formally turned over to Timuoy Juan Alog in Sitio Poduan, Brgy. Tabayo, ZDN. However, it still did not resolve the issue on traditional leadership in the ancestral domain.
October 30, 2008		The NCIP, through ZdN OIC-PO Farolito Isaw attempted to validate the CoE as the authentic, genuine traditional leadership in R09-CADT-SIO-0403-0005 during its supposed FPIC consultation over the application of coal mining of Ulysis Mining Co.
November 17, 2008		The kobogolalan of the Apu Manglang Glupa Pusaka, together with Gulang Gukom Timuoy Noel Lima, visited the office of the NCIP Region IX Director to demand the resolution of the traditional leadership conflict in Mt. Canatuan. The director clarified the need for a ritual to complete the kobogolalan structure begun in March 2007.
January 21, 2009		Timuoy Lambo, Timuoy Molay, Timuoy Alog, and Timuoy Tala visited the NCIP office in Quezon City and met with NCIP National Commissioner Insigne, Ancestral Domain Office Director Myrna Caoagas, Apostol and Quilaman to demand the recognition of the traditional leadership of Juan Alog in the ancestral domain. There was a verbal admission from the NCIP officials of their recognition of Timuoy Alog, the reason why the registered CADT was turned over to him. ³⁴⁷
February 2-3, 2009		Meeting of the AMGP leadership with the NCIP as facilitated by the Gukom for the purpose of settling the issue of traditional leadership in Canatuan. However, the NCIP did not honor its words in the guise of “respecting the human rights of the CoE”. The NCIP promised to resolve the issue before the end of February 2009.
March 1, 2009	TVI Pacific Inc. Annual Information Form March 19, 2014	TVI finished the construction of a new sulphide production plant and commenced commercial production of copper concentrate
March 26-29, 2009		Timuoy Ben and Orlando Malang declared that they are considering negotiations with the company at Mindanawon’s creating open spaces for conversations held in Toyozu Resort in Maco, Compostela Valley
May 2, 2009		Timuoy Ben Alog opened up to the Task Force Canatuan about their plan to negotiate with TVI
March – July 2009		Various negotiations with a Subanon lawyer and Gulang Gukom for the resolution of the traditional leadership issues in Canatuan.

³⁴⁷ Based on the document Chronology of Leadership Dispute in R09-CADT-SIO-0403-0005, Brgy. Tabayo, Siocon, Zamboanga del Norte prepared by LRC-KSK’s Zherwina Mosqueda with notes from Penelope Sanz

August 27, 2009		Affirmation of the traditional leadership of Timuoy Juan Alog in the ancestral domain conducted in a ritual called <i>pomotangmotang</i> , led by the Gulang Gukom Timuoy Noel Lima, and witnessed by the traditional leaders of the Gukom Sog Pito Kodolungan, the community members, the NCIP, the MGB, and guests.
April 25, 2011	TVI Pacific Consolidated Financial Statements for the years ended Dec. 31, 2013 and 2012	TVI announced the commencement of zinc production at the Canatuan mine.
May 17, 2011	Gulang Gukom Press Statement, May 18, 2011	TVI publicly admitted its fault and performed the mandatory cleansing ritual at their expense on May 17, 2011 in Canatuan.
January 20, 2014	TVI Pacific Inc. Annual Information Form March 19, 2014	TVI announced that its Canatuan mining project has stopped milling operations at its Canatuan mine.

APPENDIX D

Chronology of the Subanos' Purposive Actions

Date	
1989	Small-scale mining activities intensified over the Canatuan area. But their entry caused apprehension among the Subanon communities. They filed a petition to the local government but were not heeded.
	The Subanon community in Canatuan applied for a Community Forest Stewardship Agreement (CSFA) with the Department of Environment and Natural Resources. They formed the Siocon Subanon Association Inc. (SSAI) for this purpose.
1991	SSAI protested against small-scale miners
13 December 1991	The Siocon Subanon Association Inc. (SSAI) was registered with the Securities and Exchange Commission (SEC), with Juan Alog as Chairperson
1993	The DENR issued a Department Administrative Order (DAO) No. 2 series of 1993. This is an attempt by the government to substantiate Section 22, Article 5, Article XII and Section 6, Article XIII of the 1987 Constitution which provides for the recognition and protection of the rights of the Indigenous cultural communities over their ancestral lands. SSAI planned to file Certificate of Ancestral Domain Claim with Timuoy Juan Alog as head claimant.
20 January 1994	An application for CADC was filed by SSAI at the Provincial Task Force on Ancestral Domain (PSTFAD). Claim for CSFA is requested to be converted to CADC.
3 March 1995	Legislation of the RA 7942 or the Philippine Mining Act
27 October 1997	The DENR issued the Certificate of Ancestral Domain Claim (RO9-CADC-113) to the Subanen Indigenous Cultural Community now recognized as ancestral landholders of 6,523.68 hectares. Under the provision of IPRA and the 1995 Mining Act, Indigenous people have the right to determine the future of developments in their land.
29 October 1997	Republic Act 8371 also known as the Indigenous Peoples Rights Act (IPRA) was promulgated emphasizing the provision that only the legitimate owner of the land, as accorded by law, has the right to determine how the resources within its rightful boundary be exploited. In addition, any developmental entity who desires to exploit the resources should seek Free Prior Informed Consent (FPIC) from the legitimate owners of the land the community in general
2000	Timuay Juan Alog wrote to the Chairperson of MGB's Provincial Mining Regulatory Board to defer any Minahang Bayan application of the small scale miners within the CADC without the free and prior informed consent of the CADC holders.

4-14 Nov 2000	Mr. Orlando Malang of SSAI went to Canada for a 10-day tour with representatives of the Committee on Mining Issues of the Diocese of Dipolog (DIOPIIM), and of the Philippine Indigenous Peoples Links. The group sought support for the Subanon's ancestral land rights and lobbied against the mining exploration activities of TVI. ³⁴⁸
23-27 July 2001	Mr. Orlando Malang presented to the 19th Session of the United Nations Working Group on Indigenous Populations, held in Geneva, Switzerland, a paper against TVI of violation and abuses of basic rights as Indigenous peoples; militarization and acts of violence and intimidation; imposing a cruel blockade barring even food and essentials to enter; blocking health services; blocking religious practices; blasphemy within their sacred ground and breaking the Subanon ritual
15 October 2001	Atelano Pension House Meeting: Resolution to support TVI was proposed by pro-TVI Tumangkis group but Alog group walked out and should have prevented approval of the Resolution because of lack of quorum.
21 October 2001	A Memorandum of Understanding (MOU) was made and entered into by and between the Siocon Subanen Association Inc and TVI Resource Development Phils. Inc. with the Tumangkis group dominantly signing it.
25 November 2001	A Subanon lawyer who was formerly the consultant of the office of the Presidential Adviser on Special Concerns-IP Matters, initiated a meeting for the election of new officers of SSAI which was supposedly chaired by Timuay Alog. Alog, Malang et.al. did not attend. In that meeting, a new SSAI was organized with Jolito Tampisao as the chairperson and Marciano Sapien as member of the Board of Trustees. Juan Alog and Orlando Malang were not informed of the said election.
11 February 2002	Siocon Subanon Association Inc. (SSAI) through its President Timuay Juan Ben Alog signed a petition addressed to the Land Bank of the Philippines in Zamboanga and Dipolog City to deny any loan from the above-mentioned cooperative. A copy was also sent to the Cooperative Development Authority office in Region 9 to deny the request of the cooperative for a Certificate of Good Standing. But before the petition reached to the office of CDA, the certificate had been already issued but the loan did not prosper in Land Bank.
27 May 2002	A manifesto of SSAI (2) signed by Jolito Tampisao expressing the need to dismantle illegal mining operations and their structures in their area and complete to stop to any further denudation and destruction to the environment and expressing the need for a professional, responsible mining activities be allowed in the area
31 May 2002	PGMA made a historic visit by visiting a sitio that is Canatuan to give a Certificate of Recognition of Ancestral Domain addressed to the "Subanen Tribe of Siocon, Zamboanga del Norte Represented by the Head Claimant Timuay Juan A. Alog"
12 July 2002	Formal formation of the Subanon Tribal Council of Elders/Leaders held in the Municipal Training Center, Poblacion Siocon, ZDN. ³⁴⁹ Facilitated by the NCIP Zamboanga del Norte

³⁴⁸ Source: DCMI and LRC-KSK

³⁴⁹ See Declaration signed on July 12, 2002. Among the signatories are Jolito Tumangkis, Timoay Jose Ben Alog, Orlando Malang etc.

27 July 2002	The COE of CADC-113 formally filed a complaint through their Council Resolution No. 5 series of 2002
3 March 2003	NCIP validation of its survey of CADC-113 in Siocon, ZDN ³⁵⁰
June 2003	Three Subanon petitioners filed a case against respondents Subanon traditional and invented leaders, and an NCIP provincial officer for the illegal composition of the Council of Elders at Canatuan, Tabayo, Zamboanga del Norte. NCIP Case No. IX-008 was docketed before NCIP Region IX office in Pagadian City, Zamboanga del Sur.
12 June 2003	The Land Registration Authority of the Philippines issued the Certificate of Ancestral Domain Title (CADT) <i>No. R09-CADT-SIO-0403-0005</i> to the Subanos of Canatuan. Note that the Subanos' CADT application was a conversion of their Certificate of Ancestral Domain Claim 113-IX
October 2003	A ritual of thanksgiving led by Timuoy Juan Alog was held in Canatuan for the CADT award. NCIP ZdN PO was there to witness the event.
November 2003	Memorandum of Agreement was signed by SSAI (2) attended by their designated lawyer Atty. Bernardo and a representative of NCIP regarding the Manifesto 2002.
4-6 February 2004	Tupo Nog Pito Kobogolalan Pogokbit Nog Golal Nog Pito Kobogolalan Gonat Sog Pito Kodolongan (The Descendants of the Seven Traditional Leaders of the Seven Rivers) or simply called "pito kodolongan" (seven rivers) held a gukom in this scale after 30 years to deliberate on the issue of Council of Elders. Thereafter, it requested the NCIP for the referral back of the case relative to the creation of the Council of Elders. NCIP Advisory opinion supported the Gukom right to act on the issue based on the primacy of customary laws. It was held in Siocon Poblacion.
February 8-11, 2004	Tupo Nog Pito Kobogolalan Pogokbit Nog Golal Nog Pito Kobogolalan Gonat Sog Pito Kodolongan (The Descendants of the Seven Traditional Leaders of the Seven Rivers) charted their genealogy during a workshop on genealogy and gathering ethnographic data in Dipolog City, Zamboanga del Norte
June 2004	The National Commission of Indigenous Peoples Office's Regional Hearing Officer dismissed Case No. IX-008 for the illegal composition of the Council of Elders at Canatuan, Tabayo, Siocon, Zamboanga del Norte with Injunction and Damages against respondents Jolito Tampusao et.al., Juan Ben Alog et.al., and the NCIP ZDN PO.
July 2004	The Gukom sog Pito Kodolongan (Gukom of the 7 Rivers) convened to act on the complaint of Timuoy Juan Alog against the creation of the Council of Elders. It decided that the CoE is illegitimate, illegal, and an affront to the customary laws, traditions and practices of the Subanons of Pito Kodolongan.

³⁵⁰ See NCIP IX ZDN Provincial Officer's Special Report addressed to Commissioner Norma Mapansa-Gonos dated 5 March 2003

2005	Several communications from the Gukom Sog Pito Kodolungan and Timuoy Juan Alog and Timuoy Lando Tala to the NCIP demanding the recognition and implementation of the Gukom ruling in 2004 against the CoE went unheeded.
December 22, 2006	NCIP through its NCIP ZDN - PO validated Timuoy Juan Alog as traditional leader of the Canatuan area, with Timuoy Lando Tala
March 21, 2007	Gulang Gukom Timuoy Noel Lima validated the bogolal of Timuoy Juan Alog and Timuoy Lando Tala. The traditional governance structure of the Apu Manglang Glupa Pusaka was formed.
August 2007	Information of discrimination in the context of large-scale mining in Mt. Canatuan was submitted before the UN-CERD. Included among the several issues raised in the submission is the FPIC violation in the context of rightful representation of traditional leadership which was violated when the CoE was created, with the facilitation of the NCIP. The CERD behest the Phil Government asking clarifications why the CADT is still unregistered, and why the CoE existed in violation of the customary laws of the Subanons.
September 2007	A ritual called “Glongosan Sog Dungos Sog Konotuan” was conducted to manifest the Subanon sentiments against the continued destruction of Mt. Canatuan and the existing problems of the traditional leadership.
November 2007	Gathering of Subanon leaders of Zamboanga Peninsula over the issues in Canatuan, held in Pagadian City. Thereafter, the leaders trooped to the NCIP Regional office to demand for the review of the 2006 FPIC Guidelines that violate the IPRA. Another demand was made by the Gulang Gukom for the implementation of the Gukom ruling in 2004 regarding the CoE issue.
December 5, 2007	R09-CADT-SIO-0403-0005 was officially registered at the Register of Deeds in Dipolog City, Zamboanga del Norte
February 2008	Meeting with UN CERD Experts for another presentation of the Mt. Canatuan issues.
May 26, 2008	The registered CADT was formally turned over to Timuoy Juan Alog in Paduan, However, it still did not resolve the issue on traditional leadership in the ancestral domain.
October 30, 2008	The NCIP, through ZdN OIC-PO attempted to validate the CoE as the authentic, genuine traditional leadership in R09-CADT-SIO-0403-0005 during its supposed FPIC consultation over the application of coal mining of Ulysis Mining Co.
November 17, 2008	The kobogolalan of the Apu Manglang Glupa Pusaka, together with Gulang Gukom Timuoy Noel Lima, visited the office of the NCIP Region IX Director to demand the resolution of the traditional leadership conflict in Mt. Canatuan. The NCIP Region IX clarified the need for a ritual to complete the kobogolalan structure begun in March 2007.
January 21, 2009	Timuoy Lambo, Timuoy Molay, Timuoy Alog, and Timuoy Tala visited the NCIP office in Quezon City and met with Insigne, Caoagas, Apostol and Quilaman to demand the recognition of the traditional leadership of Juan Alog in the ancestral domain. There was a verbal admission from the NCIP officials of their recognition of Timuoy Alog, the reason why the registered CADT was turned over to him.

February 2-3, 2009	Meeting of the AMGP leadership with the NCIP as facilitated by the Gukom for the purpose of settling the issue of traditional leadership in Canatuan. However, the NCIP did not honor its words in the guise of “respecting the human rights of the CoE”. The NCIP promised to resolve the issue before the end of February 2009.
March 28, 2009	Timuoy Ben Alog and his Soliling Orlando Malang declared during the Mindanawon Initiative for Cultural Dialogue’s Open Spaces for Conversations their decision to negotiate with TVI.
March – July 2009	Various negotiations with a Subanon lawyer representing TVI and Gulang Gukom for the resolution of the traditional leadership issues in Canatuan.
August 27, 2009	Affirmation of the traditional leadership of Timuoy Juan Alog in the ancestral domain conducted in a ritual called pomotangmotang, led by the Gulang Gukom Timuoy Noel Lima, and witnessed by the traditional leaders of the Gukom Sog Pito Kodolungan, the community members, the NCIP, the MGB, and guests.

APPENDIX E

Financial Tracking: TVI Pacific

Date	Activities	Reference
1987	The Company was incorporated under the ABCA on January 12, 1987, as Travel Ventures Inc. On October 20, 1992, the Company changed its name to TVI Copper Inc. and on July 11, 1994, its name was changed to TVI Pacific Inc.	
1989	TVI Pacific has been in the mineral exploration business since 1989. Its initial activities were in Saskatchewan and British Columbia, though the property in Saskatchewan was abandoned in 1991. Additional future exploration will be undertaken on the Anyox property located in British Columbia, although no work program is planned for 1997	
Jan. 20, 1994	TVI Resources entered into an exploration agreement with Benguet Corporation with the option to purchase a 100% interest in 486 hectares of the Canatuan property located near Siocon, Zamboanga del Norte.	
1991	TVI Pacific founded EDCO to provide good quality and cost-effective drilling services.	
December 1996	TVI Resources acquired from the royalty a holder a 3% royalty interest, leaving the holder with a 1% royalty. The purchase price was US \$ 1.4 million, payable as to US \$ 1.0 million in cash and 434,792 shares of the company. In: TVI Pacific Audited Financial Statements, May 13, 1997 by KPMG	

1997

28 Feb 1997	TVI Pacific Inc. announces that Echo Bay Mines Ltd., under its right of first refusal, has elected not to match the arrangement contemplated by the January 16, 1997 Letter of Intent between TVI and Newmont Philippines Inc. (Newmont) regarding the Northern Cordillera Financial or Technical Assistance Agreement application areas in Luzon, northern Philippines.	
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	The arrangement outlined by the Letter of Intent entitles Newmont to earn a 60% shareholder interest in the two FTAA areas currently applied for by TVI Pacific upon the initial expenditure by Newmont of US\$4.0 million. During the term of this arrangement, Newmont will be the operator of the project and will design and conduct an exploration program for these areas. Upon Newmont earning a 60% interest in the FTAA, Newmont and TVI will contribute to further expenditures on a pro-rata basis.	
3 April 1997	<ul style="list-style-type: none"> • TWO NEW GOSSAN AREAS DISCOVERED AT CANATUAN Within 1 kilometre of the Canatuan Deposit referred to as the SE and NW Canatuan targets where mineralized gossan boulders in the laterite profile appear to be derived from the main Canatuan deposit. As of the end of February, a total of 275 test pits had been completed. Many assays are still pending, especially for the NW target, but results to date indicate the potential for up to 250,000 tonnes of additional gossan resources, representing a 20 to 30% increase in oxide mill feed compared to the Canatuan feasibility study. • INITIAL ASSAYS INDICATE STRONG GOLD AND SILVER MINERALIZATION Gold and silver grades may be similar to those of the Canatuan gossan reserve (3.5 g/t Au and 120 g/t Ag). • POTENTIAL FOR ADDITIONAL SULPHIDE RESOURCES Massive sulphide mineralization and gossan along strike suggests that Canatuan may be only one of a series of similar deposits in the same favourable stratigraphy. 	April 3, 1997 TVI Press release
	TVI Pacific Inc.'s stakes in the Philippines include mining properties in Canatuan, Kingking, Rapu Rapu, Diwata, Panaon, Tuba Malaya, Diwalcampos, Bicol/Visayas, Batong Buhay, Pantukan, Mindanao and other provinces. In Canada, it has two mining properties located in Anyox, B.C.	
11 April 1997	Announcement of Annual & Special Meeting of Shareholders on 25 June 1997 Source: TVI Pacific April 10, 1997 TVI Communique to Canada's securities commissions in www.sedar.com	
14 April 1997	Announcement of continuing good results from 1997 drilling at Kingking, Davao del Norte, Mindanao, Philippines	TVI PR 14 April 1997
15 April 1997	Press release on KINGKING resource estimate that is, significant increase in resource estimate tonnage or contained copper and gold, oxide gold grade increased	
24 April 1997	RAPU RAPU EXPLORATION RESULTS indicate substantial increase in the resource and exploration potential of Ungay Malobago and Hixbar gold-rich massive sulphide horizons; stream sediment geochemistry has identified promising anomalies along strike from Ungay Malobago	

30 April 1997	<p>Kingking Initial Feasibility Study Results:</p> <ul style="list-style-type: none"> Initial feasibility study projects production of 4.5 million ounces of gold and 2.3 billion pounds of copper over 16 year mine life; Preliminary estimates of operating costs are \$0.69/lb copper and \$257/ounce gold; Preliminary estimates of initial capital costs are \$607 million (using Submarine Tailings Disposal) and \$642 million (using Land Based Tailings Disposal); Further optimization work is expected to enhance the overall project economics These resources at Kingking contain 2.99 billion pounds of copper and 6.6 million ounces of gold, which is a significant increase from the 1993 resource estimate by Benguet Corp. (NYSE: BE) of 2.11 billion pounds of copper and 3.8 million ounces of gold. A mine based on these resources would produce 4.5 million ounces of gold and 2.3 billion pounds of copper. Operating costs for this mine have been estimated at \$0.72/tonne of material for mining, \$2.80/tonne to mill sulfide ore and \$3.99/tonne to mill oxide ore. These results translate into operating costs of \$0.69/lb of copper and \$257/ounce of gold, including transportation and treatment and refining costs 	
20 May 1997	<p>TVI Pacific is a Canadian-based mining company exploring and developing gold properties in the Philippines. Over the past four years TVI has worked diligently to assemble a property portfolio composed of 21 projects covering more than 1 million hectares. Focused on gold, TVI intends, through its discovery, acquisition and development strategy, to be producing in excess of 250,000 ounces of gold per year by the year 2001. TVI's corporate growth strategy is to generate early cash flow from its near-term mining operations at Canatuan as well as through EDCO, its wholly-owned drilling subsidiary, while concentrating its disciplined approach to exploration and development at discovering world class deposits</p> <p>Note:</p> <p>March 24, 1996 - tailings spill at the Marcopper Mine on Marinduque Island. It affected the company's production decision for its Canatuan project, which has been set back by one year, and the start-up of the Canatuan small-scale pilot plant was delayed six months while waiting for the issuance of both the MPSA and ECC to be granted. In late October 1996, the MPSA was finally granted. This allowed the process of completing project financing for Canatuan to commence and also allowed bullion production at our pilot plant to commence shortly thereafter. As of today, the ECC has not been issued.</p> <p>The granting of other MPSAs and FTAA's on grounds applied for by TVI have been delayed. MPSAs began being routinely processed in October. FTAA's are still not being processed and probably won't begin to be processed until later this year when the form of fiscal regime is expected to be finalized. In some respects these delays have been beneficial to TVI in that we have been able to more fully evaluate our application areas without having to commit to work programs and land rentals. In other respects the uncertainty over the FTAA's has resulted in delays in TVI being able to joint venture FTAA application areas.</p>	1997 Annual Report

	<p>Canatuan project's receipt of a very robust bankable feasibility study, issuance of the MPSA, appointment of the Engineering Procurement Construction and Management contractor, signing of the term sheet for US\$29 million in project financing, and completion of both substantial infrastructure development and detailed engineering work.</p> <p>The small-scale pilot plant began operating in November 1996 and TVI has been pouring bullion weekly at this 50 tonnes per day plant for several months. The primary purpose of this pilot plant is to act as a small-scale "dry run" for the full-scale plant, while at the same time allowing testing of metallurgical parameters of the deposit and serving as a training site for the full-scale plant. This plant is also generating some early cash flow from bullion sales.</p>	
March 1997	TVI engaged Rothschild Australia Limited as exclusive financial advisor and project finance arranger for Canatuan. In March 1997 the Company accepted a joint offer of finance from Rothschild Australia Limited and Bayerische Veriensbank AG of up to US\$29 million. That financing has not been formally withdrawn, but the lenders have advised the Company that an up-dated feasibility study will be required, using current metal prices and revised costs, taking into account the effects of devaluation and inflation.	
June 25, 1997	Annual & Special Meeting of Shareholders	
June 1997	The final licensing requirement for construction of the main plant at Canatuan, the Environmental Compliance Certificate, was awarded to TVI by the Philippine government. TVI is now in a position to make a construction decision on the project, as soon as financing is completed. A financing offer from Rothschild Australia Limited, in conjunction with the Bayerische Vereinsbank AG, is still available, and TVI is working with Rothschild to secure the remainder of capital requirements.	1998 Annual Report
	Also in the first half of 1997, the Company entered into separate joint venture agreements with Minorco Exploration Philippines and Newmont Philippines to explore properties on the island of Luzon, northern Philippines. These are part of TVI's ongoing strategy of expediting exploration efforts, while minimizing financial risk by inviting larger firms to take part in prospective projects.	1998 Annual Report
	Generated cash flow from two sources: 1) EDCO developed into a commercial operation and are working under contract in the Philippines, China and Taiwan. TVI will continue to expand EDCO's commercial operations, while maintaining a supply of rigs and crews for its own drilling activities. 2) The upgraded pilot plant at Canatuan, working at a capacity of 80 tonnes per day. It provided TVI with income while also contributing to the Company's base of experience in establishing the practical metallurgical and operational parameters of the full-scale project. Because of the high content of gold in the output of this plant, and the low price of that metal, production was halted in January 1998. TVI is now exploring the possibility of re-opening a re-engineered and further upgraded plant.	1998 Annual Report

	A semi-autogenous grinding (SAG) mill has been purchased and other long-lead equipment has been sourced. ³⁵¹	
	<p>Nomination of three new members of the Board of Directors:</p> <p>Robert C. Armstrong has over 35 years experience in the mineral industry. He has worked in senior and executive positions for several mining companies, including Cominco Ltd. and Echo Bay Mines Ltd., with both domestic and foreign responsibilities for mineral exploration and mining operations. He is currently President of Armstrong Associates International, LLC., a private company involved in the industry.</p> <p>Andrew MacG. Robertson is a mining and civil geotechnical consultant with 30 years of industry experience, specializing in the areas of geotechnical and environmental engineering, design and assessment. Dr. Robertson was a co-founder Principal, and corporate consultant to, Steffen Robertson and Kirsten (SRK) (Canada) Inc., a well-known international firm of mining consultants, and is currently Principal of Robertson GeoConsultants Inc. He is the Chairman of Gemcom Software International Inc., a publicly listed (TSE) mining software development company. He is also a director of Golden Palm Resources, a Vancouver junior exploration company.</p> <p>Robert R. Stone brings over 30 years of financial experience in the mining industry. He has worked in several senior positions at Cominco Ltd., including Vice President, Finance and Chief Financial Officer and five years as a director. Mr. Stone holds directorships in numerous corporations and associations, and also consults to the industry.</p>	
	The existing TVI exploration camp consists of offices, core sheds, sample preparation lab and sleeping quarters for on-site staff. These facilities will be renovated and retained for use during the project. A fifty tonne per day carbon-in-leach (C.I.L.) gold extraction pilot plant was commissioned on-site in November 1996 and was upgraded to operate at 80 tonnes per day in 1997. This plant, although closed in January of 1998, provided TVI with extensive information that confirmed the metallurgical characteristics of the gossan ore and the design criteria for the full-scale plant. The operation of this plant also gave the Company the opportunity to train future operators and to gain construction, operating, and logistical experience in the area.	
	Since 1995, EDCO built up a fifteen rig fleet, eight of which are fully hydraulic longstroke drills, capable of depths up to 380 meters of “H” sized core and three others capable of drilling up to 1,000 meters depth. Three drills are mechanical / hydraulic, and able to service areas of remote access where mobility is restricted. EDCO also operates a	TVI Pacific Annual Report 1998

³⁵¹ SAG is an acronym for Semi-Autogenous Grinding, which means that it utilizes steel balls in addition to large rocks for grinding. The mills rotate that tumble its contents, which cause a breaking action. The liner is made of wear resistant steel and fitted with lifters, which assist in raising the load as the mill rotates. The load consists of dry ore, steel balls and water, which occupies 30% of the volume (<http://technology.infomine.com/articles/1/2033/mill.grinding.processing/sag.mills.aspx>)

	<p>lightweight mobile drill, which can be manually transported into the most inaccessible of locations and is capable of drilling 100 meters of thinwall core.</p> <p>Since the end of 1997, in addition to operating on TVI's own and third party exploration projects throughout the Philippines, EDCO has been providing drilling services in China and Taiwan. The contracts in China are unique, in that a foreign contractor is providing drilling services.</p>	
	<p>During the year the Company wrote off its entire investment of \$21,969,668 in the now-abandoned Kingking project, including amounts sets aside for actual and contingent liabilities. The alliance between Echo Bay and the Company included the Kingking joint venture, the granting to Echo Bay of rights of first refusal and back-in rights on all of the Company's properties in the Philippines and rights to maintain its equity percentage in the Company. The Company and Echo Bay have agreed to cancel these arrangements in 1998. The long-term debt due to Echo Bay by Exploration Drilling Company, the Company's drilling subsidiary, is now the only contractual link between the two companies</p>	TVI Pacific Annual Report 1998
	<p>The expenditures in 1995 include \$14.7 million for TVI's share of costs related to the Kingking project, and the acquisition of the Nadecor royalty interest. Both amounts, plus related expenditures, have been written off in 1997. The 1995 expenditures also include \$6.7 million spent to bring the Canatuan project to completion of its feasibility study. In 1996 they include approximately \$1.4 million spent in acquiring 3% of the existing 4% royalty on the Canatuan property, \$3.4 million on a comprehensive exploration and drilling program at Rapu Rapu and \$4 million as TVI's share of the Kingking project expenses. The expenditures in 1996 on office and administration expenses, and shareholder services all reflected TVI's growth, increased emphasis on communication with TVI's shareholders and public financial markets, and increased staffing as the Company's operations continued to grow. In the second half of 1997, when it became clear that economic conditions were unlikely to soon improve, the Company reduced staff substantially, closed regional exploration offices in the Philippines, and closed offices in Toronto and Vancouver. Taking into account the severance costs, the net savings to the Company are not readily apparent in the expense figures for the year 1997; however, the benefits of these cost reductions are now being realized by the Company. There have been substantial savings in salary costs, rents have been reduced by sub-letting, and office costs such as telephone, stationery and supplies have been cut. Professional fees have been reduced. The costs of communicating with shareholders, however, have proved difficult to reduce.</p> <p>The interest income in 1996 was earned on temporary cash balances arising from \$30,129,000 of additional share capital issued in 1996. The Company's cash balances were substantially lower in 1997 and interest income was therefore lower too.</p>	

	<p>In 1997 the company received \$25,000 on exercise of options, and \$555,000 in a private placement of special warrants.</p> <p>TVI's wholly owned subsidiary, EDCO, provided drilling services to the Kingking project. Ancillary to the drilling contract, EDCO obtained a loan of US \$1.5 million from an affiliate of Echo Bay, to finance the purchase of drilling and other equipment. Since the termination of the Kingking joint venture, Echo Bay and the Company have agreed to increase the amount of the loan to US\$1,542,585 to allow the Company to effectively finance its share of the Kingking joint venture costs for the second half of 1997, and its required contributions to severance and other closure costs. The debt will be repaid from the proceeds of commercial revenue earned by EDCO at the rate of US\$10 per meter drilled.</p>	
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1998

	<p>TVI's project portfolio consists of a large land position on 14 properties throughout the Philippines, offering near term production to long term grassroots exploration potential, and the Anyox copper property in north west British Columbia.</p>	
	<p>Corporate Strategy 1999-2001</p> <p>The anticipated expenditures to be financed in the next two years are not susceptible to reasonable forecast, and depend on the Company's access to capital markets, but TVI has determined that its net expenditures for 1999 will amount to approximately \$3.0 million, to be financed by cash flow from its drilling operations, private placement financings, joint venture agreement payments and asset sales. As mentioned earlier, the Company has been reviewing the Canatuan project to re-examine all potentially economic configurations including a smaller scale two-stage operation restricted to stand-alone gossan gold and silver operations in the first stage, and sulphide (gold, silver, copper, zinc) processing in the second stage. (TVI Annual Report 1999: 12)</p>	

1999

	<p>Decline in price of TVI's share</p> <p>There are a number of factors that contributed to the decline in price of TVI's shares over the past two years. The principal influence of course, has been the substantial drop in the market value of the commodities for which we</p>	
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	<p>explore. This led to, among other things, the marginal feasibility and eventual halt of the Kingking joint venture project with Echo Bay Mines in 1997. The Bre-X fiasco and the resulting fallout for all junior resource companies, worldwide; the Southeast Asian regional financial crisis; concern over delays in permitting in the Philippines which directly affected our Canatuan project; and the resulting general difficulty in raising financing from traditional sources with which to advance exploration and development programs are additional factors in the decline. As a result, a number of holders, most notably institutions (which in 1996 held approximately 50% of the shares outstanding and now less than 25%)</p> <p>began to dump their share positions, placing a large oversupply of shares on the market. As this was occurring, our operations had to be scaled back to preserve cash, which in turn led to a drop in our activities and in the amount of news being released from the Company, and to a growing uncertainty in the market regarding our ability to survive</p>	
June 1999	<p>TVI entered into a non-inclusive Letter of Intent to Joint Venture and finance the Canatuan project with Japanese Group of Companies. The agreement calls for JG to earn 40% interest in the project by making a cash payment to TVI in exchange for 75% project financing of the project for 75% of the total cost of the project. The remaining 25% is going to be supplied by the two groups in pro rata basis.</p> <p>Source: TVI Pacific 1999 Annual Report</p>	
	<p>In 1999 Lafayette Mining NL of Australia and its co-participants negotiated an agreement to acquire all of the Company's interest in Rapu Rapu in exchange for a cash payment of US\$500,000 (approximately Cdn\$725,000), 3,300,000 common shares of Lafayette having an approximate market value of Cdn\$538,000, 3,300,000 unlisted share options having an exercise price of A\$0.20 each, and a 2.5% net smelter royalty (NSR). Lafayette has an option to acquire the NSR for US\$2.725 million and must make quarterly payments of US\$40,000, US\$60,000, US\$80,000 and US\$100,000 beginning on December 17, 2000 to keep the option in force.</p>	

2000

	TVI Pacific 2000 Annual Report now has a blurb: Sustainable Resource Development in Southeast Asia	
	<p>In 1999, the Company raised \$1,001,211 by way of proposed private placements to increase its working capital. At December 31, 1999 The Toronto Stock Exchange had not approved these transactions, and had asked that, in view of the percentage participation by insiders, the proposed placements be approved by non-related shareholders. A resolution to that effect was presented to and approved at the Annual and Special Meeting of shareholders in June 2000. Additional subscriptions were made in 2000 and a new resolution will be presented for the aggregate subscriptions, including amounts currently being raised, at the Annual and Special Meeting to be held in June 2001.</p>	

January 2000	<p>Phil. Government awarded the company with a four year tax holiday and may be extended for another two years.</p> <p>TVI Pacific Inc. sold its 25% interest in Lafayette Mining NL of Australia's Rapu Rapu Gold and silver mining project</p>	
	<p>The Company's drilling subsidiary, Exploration Drilling Corporation (EDCO), had a very difficult and unprofitable year. Mineral exploration activity in the Philippines and the immediate region did not increase to the extent anticipated.</p> <p>EDCO incurred a loss on a cash basis of \$1,078,916 (1999 - \$441,466) before charging depreciation of \$565,686 (1999 - \$734,068 plus a special charge of \$1,300,000 to reduce the carrying values of drilling rigs not in use) and \$233,790 (1999 - \$242,533) of interest on long term debt that has not been paid. All of EDCO's capital assets are now fully depreciated.</p> <p>EDCO has recently diversified into shallow-hole oil and gas drilling, and expects this to develop into a profitable and sustainable market as demand for energy continues to increase in the Philippines and elsewhere. Normally the cash flow from EDCO's operations is used to fund in part the Company's exploration and administrative activities, so the cash loss has been a large demand on the Company's limited resources.</p>	

2001-2002

	<p>2001 the Company embarked on a program to acquire similar properties in China while maintaining its interests in the Philippines. The China program has continued, and in 2002 the Company was successful both in acquiring properties in China and in securing drilling services work there.</p>	
	<p>On July 6, 2001, the Alberta Securities Commission issued a cease trade order and on July 31, 2001 the Ontario Securities Commission issued a cease trade order in respect of trading in securities of Rift Resources Ltd. (Rift). Mr. Jesse, Mr. Loucks and Mr. Horejsi were, at all relevant times, directors of Rift. These cease trading orders were issued because of the failure of Rift to file certain financial statements in accordance with the requirements of the Securities Act (Alberta) and Securities Act (Ontario). These orders are still in effect.</p> <p>In: TVI PACIFIC INC. Annual and Special Meeting of Shareholders to be held on Friday, June 17, 2005 MANAGEMENT PROXY CIRCULAR, SEDAR filing: 18 May 2005 Management information Circular</p>	

	<p>The Company has been successful in negotiations with various Philippine government agencies and NGO's in the creation and implementation of a regional economic development plan for the area close to the Company's Canatuan project in Mindanao. Central to this plan is the successful re-commissioning and start-up of the existing pilot plant at Canatuan in December, 2002. There was no production in 2002, but in 2003 the plant has achieved production of 60 tonnes per day processing tailings produced by small-scale miners. The Company intends to increase production substantially, and expects to reach a rate of 500 tonnes per day in stages that will be determined in engineering studies now underway.</p>	<p>TVI PACIFIC INC. Management Discussion and Analysis Year Ended December 31, 2002</p>
	<p>On March 15, 2002 the Alberta Securities Commission issued a cease trade order in respect of trading in securities on DMR Resources Ltd. (DMR). Mr. Jesse was, at all relevant times, a director of DMR and Mr. Lore was at all relevant times, President and a Director of DMR. The cease trading order was issued because of the failure of DMR to file certain financial statements in accordance with the requirements of the Securities Act (Alberta). This order is still in effect.</p> <p>In: TVI PACIFIC INC. Annual and Special Meeting of Shareholders to be held on Friday, June 17, 2005 MANAGEMENT PROXY CIRCULAR, SEDAR filing: 18 May 2005 Management information Circular</p>	
	<p>On February 20, 2002 the Toronto Stock Exchange suspended trading in respect of securities of Aris Canada Ltd. (formerly Gimbel Vision International Inc.). Mr. Jesse was, at all relevant times, Chairman and director of Aris. The trading suspension was issued because of a failure to meet certain continued listing requirements on the TSE. On February 21, 2002, Aris shares began trading on the part of Aris Canada Ltd. On the Canadian Venture Exchange. Mr. Jesse resigned as director and Chairman in September 2002. On June 10, 2003, Aris Canada Ltd. was placed into voluntary receivership.</p> <p>In: TVI PACIFIC INC. Annual and Special Meeting of Shareholders to be held on Friday, June 17, 2005 MANAGEMENT PROXY CIRCULAR, SEDAR filing: 18 May 2005 Management information Circular</p>	

2003

June 23, 2003	<p>Echo Bay Mines Ltd. ("Echo Bay") agreed to settle all debt (approximately \$3,480,000) owed to Echo Bay by a wholly-owned subsidiary of TVI Pacific Inc. ("TVI" or "the Company") in exchange for the issue of 7,000,000 common shares of TVI at a stated value of \$560,000 (\$0.08 per share).</p>	
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January 2003	The Company's Canatuan property includes a small-scale processing plant that was re-activated in late December 2002, producing its first revenues in January 2003. It operated throughout the year, reprocessing tailings it purchased from the artisanal miners who had been operating illegally on the Company's mineral concession. While this venture incurred an overall loss of \$732,569 for accounting purposes, because a substantial amount of these funds was used to upgrade the existing plant and improve mine infrastructure, it was a major achievement in taking the Company nearer to commercial production and it established the Company's presence in the region. The supply of tailings was depleted by mid-January, 2004, and the plant has been closed for modification and refitting to begin processing at 125 tpd.	TVI Pacific Annual Report 2004
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2004

25 May 2004	L'autorité des marchés financiers has been added as a recipient agency for SEDAR project #00649567 on behalf of TVI Pacific Inc. In: Bennett Jones's LLP, Services limited partnership to L'autorité des marchés financiers dated 25 May 2004 (www.sedar.com)	
12 Nov 2004	TVI has two active projects at the present time – the Canatuan mine in the Philippines and the Shuikoushan Gold Project exploration program in China. The Canatuan mine began mining ore in May. Milling operations commenced in late June with the start-up of a commissioning period. The Shuikoushan Gold Project exploration program has been focused primarily on the Xianrenyan Resource Target, but some work has been conducted on the Xinmengshan prospect.	

2005

Jan 1, 2005	On January 1, 2005, the mine at Canatuan in the Philippines achieved commercial production. This is the first mine for TVI to obtain commercial production and the first foreign invested new mining project in the Philippines in many years. In: Sedar Filing: March 30, 2006 - MDA	TVI 2005 Management Discussion & Analysis
	The Company has completed a \$1.5 million private placement of convertible debentures and warrants primarily funded by related parties. Seajay Management Enterprises Ltd., a corporation controlled by the President and Chief Executive Officer of the Company, will be participating in the issue in the amount of \$1,075,000. The proceeds of the placement will be used for general working capital purposes.	Material Change report dated Feb. 24, 2005

April 26, 2005	TVIRD entered into the Balabag agreement in April 2005 with Zamboanga Minerals Corporation/ Reported the completion of the initial application process to obtain exploration rights covering 1,257.12 km ² of properties situated in a new mineral district located on the Zamboanga peninsula of Mindanao in the southern Philippines, approximately seventy-five kilometers to the north-east of TVI's Canatuan mine.	
April 29, 2005 (Press Release)	The Rapu Rapu project, located in the province of Albay, Philippines, is a polymetallic mining project which a group of companies including Lafayette Mining Limited, a publicly traded Australian company, is developing. TVI retains a 2.5% net smelter return royalty (NSR) in the project.	
10 May 2005	KPMG resigned as auditor of the company.	
June 13, 2005	Grant Thornton LLP determined that the Corporation does not meet that Firm's client acceptance criteria. In particular, the Corporation understands that Grant Thornton has determined not to stand for appointment as auditor owing to the jurisdictions in which the Corporation operates (which gives rise to a need to oversee certain fieldwork in those jurisdictions) and concerns related to the completion of an audit having regard to the timing requirements prescribed for public corporations in Canada and the Corporation's current year-end.	TVI Pacific June 10, 2005 news release
	Recommend PricewaterhouseCooper LLP as auditor In: TVI PACIFIC INC. NOTICE OF CHANGE OF AUDITOR (National Instrument 51-102) dated 20 June 2005 Note: From hereon audited financial statements and MDAs always contain phrases "forward-looking statements" ³⁵²	
	On January 1, 2005, the Company declared commercial production at Canatuan polymetallic mine located in the Province of Zamboanga del Norte on the island of Mindanao. This is the first commercial operating mine in TVI history. In 2005, the mine underwent progressive expansion to increase daily throughput capacity and metal recoveries. These expansions were financed through project generated cash flow and vendor finance. The final expansion of the plant started in late 2005 and is expected to be completed in the second quarter of 2006. The major components of these expansions included,	

³⁵² Forward-looking statements are based upon the opinions and expectations of management of the Company as at the effective date of such statements and, in certain cases, information received from or disseminated by third parties. It underscores that it gives no assurance that those expectations will prove to have been correct due to certain risks and uncertainties (known and unknown e.g. volatility of prices for precious metals and base metals, commodity supply and demand, fluctuations in currency and interest rates, inherent risks associated with the exploration and development of mining properties, ultimate recoverability of mineral reserves, timing, results and costs of exploration and development activities, availability of financial resources or third-party financing, new laws (domestic or foreign), changes in administrative practices, changes in exploration plans or budgets, and availability of equipment and availability of personnel. PricewaterhouseCoopers LLP cautions that should not place undue reliance upon the forward-looking statements contained in this Annual Information Form and such forward- looking statements should not be interpreted or regarded as guarantees of future outcomes (TVI Pacific 2008 Annual Information Form: 2009)

	the first stage of a new tailings dam (second stage is to be completed by during the second quarter of 2006) , a primary crusher, a second ball mill, increased CIL/CIP tanks and thickening capacity, and the addition of a Merrill Crowe and gravity concentrator.	
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2006

	In 2006 average production was 1,620 tpd, producing 56,880 gold equivalent ounces.	
	<p>In 2006 the gold feed grade fell from 3.62 gpt to 2.72 gpt and the silver feed grade fell from 150.40 gpt to 51.78 gpt however the tonnes of ore processed increased from 192,870 dmt to 591,180 dmt resulting in increased gold and silver production. Gold recoveries in 2006 increased to 87.49% from 82.61% in 2005 while silver recoveries increased from 50.10% in 2005 to 61.82% in 2006. A total of 56,880 gold equivalent ozs were produced compared to 26,830 gold equivalent ozs in 2005. Revenues increased from \$14,634,699 in 2005 to \$39,377,336 in 2006. The average price received per gold oz increased from \$544 to \$687 in 2006 and silver increased to \$13 from \$9. The cash cost per equivalent gold oz of \$386 was slightly lower than \$398 in 2005</p> <p>TVI Pacific Management's Discussion and Analysis amended to reflect restatement of consolidated financial statements for the year ended December 31, 2006</p>	

2007

January 18, 2007	TVI's Board of Directors provided final approvals for the construction of the Sulphide Project, subject to obtaining additional financing. The Sulphide Project includes the construction of a new plant to process ore from the copper-zinc bearing sulphide zone below the mined gossan zone using open pit methods, and the building of a separate tailings dam for its tailing deposits. Construction activities for the Sulphide Project advanced over the course 2007, occurring concurrently with the gossan operation, and continued through 2008 after the completion of gossan operations.	
	Gold production in Canatuan in 2007 averaged 2,028 tpd and 45,905 gold equivalent ounces were produced.	
August 2007	In August 2007, the Company, having failed to file interim financial statements for the period ended June 30, 2007, as a result of the Company learning of accounting errors which necessitated filing of restated audited financial statements for 2005 and 2006 and unaudited financial statements for the first quarter of 2007, requested an order from the Alberta Securities Commission that certain named insiders (including all members of the board of directors) cease trading the Company's securities pending the filing of such unfiled statements (the "August Order"). Each of the directors of the Company was subject to the August Order.	

October 16, 2007	As a result of the Company remaining in default of its obligations to file the unfiled statements, the Alberta Securities Commission revoked the August Order and ordered that trading cease in respect of the securities of the Company (the "October Order"). The October Order was revoked on January 4, 2008 and trading in the Company's securities resumed on January 11, 2008.	
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2008

January 4, 2008	The October Order was revoked on January 4, 2008 and trading in the Company's securities resumed on January 11, 2008	
February 29, 2008	<p>During the first quarter of 2008, the Company sold all of the shares of Tiamut International Limited to a third party. The sale also involved the transfer of TVI's indirect, wholly-owned exploration and drilling services subsidiary in China, HPGEI. HPGEI, which was, at the time of the sale of Tiamut International Limited, a wholly owned subsidiary of Tiamut International Limited. HPGEI operated from offices in Hengyang City, Hunan Province, in Kunming, Yunnan Province, and in Beijing.</p> <p>To strengthen its balance sheet, the Company closed the sale of its Chinese exploration and drilling operations through the sale of the outstanding shares of its subsidiary Tiamut International Limited to an arms-length third-party, pursuant to a share sale agreement, dated February 29, 2008 (the "Tiamut Share Sale Agreement"). The purchase price of the Tiamut International Limited shares was US\$1,980,000, of which US\$300,000 (the "HoldbackAmount") was deposited into escrow with a third party trust company.</p> <p>TVIRD entered into the Balabag agreement in April 2005 with Zamboanga Minerals Corporation and in February 2008, TVIRD exercised the option to acquire the rights and obligations of the Balabag property. In February 2008, TVIRD paid US\$50,000 in cash and in February 2009 the balance of the purchase price was paid through the issuance of 23,228,444 common shares of the Company at an issue price of \$0.016 per share. The agreement includes a net smelter return royalty of 2.5%.</p> <p>The number of corporate employees varies with the activities of TVIRD's exploration and development programs. At the Canatuan project in the Philippines, as further described herein, the core group of employees is approximately 570 (393 for operations and 176 for security). In the Makati Office, there are a total of 31 employees. There are 50 employees in the exploration department (4 are directly involved with exploration related activities and 46 for security). There were no employees in Davao and Tamarok, as projects in these locations are currently on hold. EDCO has approximately 6 employees. HPGEI had 23 employees at the time of the sale of Tiamut International Limited to a third party purchaser effective February 29, 2008.</p>	

March 13, 2008	TVI Pacific Inc. and its Philippine affiliate, TVI Resource Development (Phils.) Ltd. ("TVIRD"), have signed a definitive loan agreement with LIM Asia Multi-Strategy Fund Inc. (formerly LIM Asia Arbitrage Fund Inc.) and LIM Asia Special Situations Master Fund Ltd. (together "LIM") (the " Lenders "), providing for a US\$15 million bridge financing facility (the "Facility") to fund activities relating to the Sulphide Project. The bridge loan was established to provide immediate funds for TVIRD to continue construction work as the Company considered longer-term financing opportunities with other investors and lenders. Shortly after the establishment of the bridge financing facility, TVI engaged BNP Paribas to serve as an intermediary in arranging a best efforts debt financing. While financing discussions arranged with the assistance of BNP advanced significantly, the sudden deterioration of the financial markets in the latter portion of 2008 effectively froze lending as institutions became anxious to cover and protect their own positions.	Sedar Filing: 24 March 2008, Material Change Report
	Production in 2008 averaged 1,971 tpd and a total of 6,079 gold equivalent ounces were produced; the gossan portion of the massive sulphide deposit was exhausted early in the second quarter of 2008. Processing of the gossan mineral reserves ceased on April 9, 2008 and TVIRD's last doré shipment was on April 24, 2008, with one additional shipment in September 2008 from reserves recovered in cleaning and retiring gossan plant equipment.	
April 7, 2008	TVI received an updated independent technical report on the Sulphide Project prepared by P.J. Lafleur Geo-Conseil Inc. It estimated the net present value of the Sulphide Project to be US\$79.1 million with an internal rate of return of 306% based on copper prices of \$3.30/lb in 2008, \$3.15/lb in 2009, \$3.00/lb in 2010, \$2.85/lb in 2011, \$2.70/lb in 2012, \$2.55/lb in 2013 and metal prices of \$1.10/lb zinc, \$900/oz gold and \$17/oz silver. The metal prices used in the report were in line with the metal prices at the time at which it was prepared. Per the London Metal Exchange, the copper price at the end of December 2008 was \$1.32/lb and \$1.76/lb on March 26, 2009.	
	In 2006 average production was 1,620 tpd, producing 56,880 gold equivalent ounces. Production in 2007 averaged 2,028 tpd and 45,905 gold equivalent ounces were produced. Production in 2008 averaged 1,971 tpd and a total of 6,079 gold equivalent ounces were produced; the gossan portion of the massive sulphide deposit was exhausted early in the second quarter of 2008. Processing of the gossan mineral reserves ceased on April 9, 2008 and TVIRD's last doré shipment was on April 24, 2008, with one additional shipment in September 2008 from reserves recovered in cleaning and retiring gossan plant equipment.	
July 2008	A portion of its EDCO assets located in Kyrgyzstan in July 2008. The Company's remaining drilling assets located in the Philippines are currently being marketed for sale.	
	At the end of 2008, based on LIM's assessment of the Canatuan project and the strong relationship that had developed between TVI and LIM, the lenders negotiated an agreement with TVI and TVIRD to convert the total bridge loan into a five-year term loan facility, which included additional capital required to complete the Sulphide Project and bring it	

	to commercial production. The final loan principal negotiated amounted to US\$29.9 million, including certain capitalized costs and fees. Under the terms of the loan, TVIRD is required to begin repaying the loan principal in October 2009, with the first interest payment due in July 2009. Notably, LIM has opted to acquire a significant equity position in the Company through the purchase of TVI common shares in the open market. As well, in connection with the execution and delivery of the term loan facility, the Company issued to LIM warrants to purchase a number of additional common shares of TVI equal to 15% of the shares then outstanding.	
November 17, 2008	It completed the construction of the major infrastructure and had “started her up” – initiated commissioning, full-scale mining, and production of copper concentrates. We are especially proud that the infrastructure for the Sulphide Project was completed on schedule and under budget. The costs incurred in connection with the construction of the Sulphide Project are considered by management of TVI to be extremely competitive when compared with other projects of a similar size and scope. (TVI Pacific Annual Report 2008)	
	<p>Corporate strategy</p> <p>Management of TVI is now looking beyond the development of the Canatuan sulphide plant to a second development-stage property and planned production centre at the Balabag gold and silver project. TVIRD is scheduled to undertake additional exploration and initial development activities at Balabag over the course of next year, subject to raising additional project financing. While the Balabag scoping study produced in early 2008 provided data on a full-scale production plant, management of the Company is currently evaluating strategies involving the establishment of a pilot plant (entailing significantly lower capital expenditures) in order to bring the project into production at an earlier date. This strategy contemplates the reinvestment of a portion of the cash flows from the operation into staged expansion and improvement of the plant, and the use of a portion of that cash flow to advance exploration activities. This was the same strategy employed to bring the Canatuan Mine into initial production and management of TVI is confident that TVIRD can execute this strategy again at Balabag.</p> <p>The current mine plan calls for TVIRD to selectively mine the high copper areas of the deposit during the early years of the project’s 5-6 year mine life, in order to maximize available cash flows, with zinc concentrates to be produced at a later date as the mining process is adjusted to the mixed copper-zinc areas of the deposit and finally to the higher-zinc areas.</p>	Annual letter to stakeholders year 2008

2009

	<p>TVIRD negotiated a five-year off take agreement for the purchase and marketing of copper concentrates by MRI Trading AG (“MRI”) of Switzerland. MRI is one of the industry’s largest copper houses. The offtake agreement provides that MRI will purchase, at market prices, all of the copper concentrates produced by the sulphide plant over the anticipated life of the operation. TVIRD has deferred the negotiation of a separate agreement regarding the zinc concentrates that will be produced at Canatuan to a later date.</p>	
March 30, 2009	<p>TVI confirmed that it had shipped 5,350 dry metric tonnes of copper concentrates to a Chinese smelter. A payment of US\$4.8 million for the concentrate from TVI’s offtake partner, MFI Trading AG, is expected “within a week”.</p> <p>On March 27, 2009, TVIRD completed its first 5,350 tonne shipment of copper concentrates from the warehouse facility at Santa Maria Port. In accordance with the offtake agreement with MRI, the copper concentrates were transferred onto two landing craft transport barges and then loaded onto the vessel M.V. Sun Glory, destined for a major Chinese smelter. In exchange for the concentrates, TVIRD received a provisional payment for 90% of the estimated value of the first shipment, amounting to approximately US\$4.9 million. Under the offtake agreement, final payment for the remaining amount outstanding is due once the final details relating to the weight, assays and prices are determined. Future shipments of concentrates to MRI are expected to occur every four to six weeks.</p>	
Wednesday, April 22, 2009	<p>TVI Pacific settles class action lawsuits claiming financial misrepresentations</p> <p>In: http://www.proactiveinvestors.com/companies/news/1340</p> <p>TVI Pacific Inc (TSX: TVI) said it entered into an agreement to settle all claims associated with class-action proceedings commenced in Ontario by Joe Marcantonio and in Québec by Florent Audette. It is paying CDN\$2.1 million to members of the proposed class, in settlement of all claims alleging that TVI made misrepresentations in financial statements that were restated in 2007. The plaintiffs had sought, among other things, damages in the amount of CDN\$16 million. The company has agreed to implement a number of internal administrative measures designed to strengthen internal controls in relation to option matters, it added. TVI has been reimbursed by its insurers with a cash amount equal to the settlement.</p>	

2012 - 2013

	The copper and zinc operations at the Canatuan mine have provided a 5.9 year mine life as compared to an initially anticipated 5 to 6 year mine life, but actual mill throughput has been much higher than planned. Actual mill throughput in recent months was increased to approximately 3,500 tonnes per day.	TVI Pacific Management's Discussion and Analysis for the years ended December 31, 2013 and 2012
	The total gross revenue for the year ended December 31, 2013 was US\$54,388,938 (\$56,389,527) which includes the additional US\$120,874 upward price adjustment for the 33 rd copper concentrate shipment and US\$212,665 downward adjustment for the 5th zinc concentrate shipment, based on the final concentrate testing relating to the final weight, assays and market price. (page 7)	TVI Pacific Management's Discussion and Analysis for the years ended December 31, 2013 and 2012
	TVI Canatuan Copper/Zinc Project employs over 1,000 people, plus contractors, and positively affect approximately 20,000 other residents on the Zamboanga peninsula through its economic footprint. TVI prioritizes the hiring of people from host communities and provides salaries and benefits that exceed those of regional counterparts. As of January 2013, 31% of TVI's workforce at Canatuan are drawn from the local Indigenous community, while another 58% are from the neighbouring provinces. The Company also provides workplace opportunities such as technical skills training, apprenticeship programs and other benefits.	TVI Pacific Inc. Annual Information Form March 19, 2013 (Information provided in this AIF is as of December 31, 2012 unless otherwise stated)
	During the year ended December 31, 2013, the mining segment generated net revenues of \$46.9 million, made up of five copper concentrate shipments and one zinc shipment, as compared to \$77.1 million net revenue realized during 2012, representing seven completed shipments of copper concentrate and three shipments of zinc concentrate. p. 23	TVI Pacific Management's Discussion and Analysis for the years ended December 31, 2013 and 2012

APPENDIX F

History of Mining Laws in the Philippines

Year	Law/ Policy	Content	Incentives	Note
	US Mining Act of 1872	Gives private individuals and corporations showing proof of a patented mining claim to have surface and underground ownership of the land for mineral extraction.		
1902	Philippine Bill of 1902	US Congress defined the manner in which mineral claims Not exceeding sixty-four hectares to such individual person, or one hundred and twenty-eight hectares to such association		
1905	Mining Law of 1905	Opened mineral lands owned by the colonial government to private consumption, ownership and exploration		This was “based from the US Mining Act of 1872, which gave private individuals and corporations showing proof of a patented mining claim to have surface and underground ownership of land for mineral extraction” (Tujan and Guzman 2002).

1914	Declaration of Surigao Iron Reservation			
1935	Mining Act of 1936 / Commonwealth Act 137	<p>Declared all mineral lands as owned by the commonwealth government while recognizing previous laws by the colonial US government. It stipulates the following:</p> <ul style="list-style-type: none"> a. ownership of mines with patented mining claims; b. leasehold system of mineral land ownership for foreign investors; c. prohibition of the Indigenous system of mining or small-scale mining granting of water and forest rights to mining concessionaires <p>Among others, this Act introduced the patent system, the exclusion of private lands from exploration and occupation, the rights of claimants over concessions and the systems for the recording of claims and in the settlement of disputes.</p>		This Act was patterned after the Federal Mining Act of 1872 of the United States and incorporated most of the features of Philippine Bill of 1902.
1937	Commonwealth Government created the Philippine Bureau			

	of Mines (PY 1989:470)			
13 March 1939	Proclamation 391	Established as mineral land reservation all mineral deposits and mineral lands in the islands north of Mindanao, in the province of Surigao, now known as the Surigao Mineral Reservation (as cited in PD 295 of 1973)		
1950	Philippine Bureau of Mines “carried out extensive exploration work for copper in the early 1950s with technical assistance from the International Cooperation Agency (ICA) of the USA. This led to the development and operation of many copper mines in the late 1950s. Thus the copper industry rose to be the dominant sector in the mineral industry during the 60s, 70s, up to the present (PY 1989: 470).			

1954	Government Assistance on Gold was promulgated on 18 June 1954 (PY 1981:329)	<p>“To assist gold producers and the gold mining industry to survive during the critical years....Since its promulgation, gold production have availed of this privilege five times. The last gold subsidy was approved on January 18, 1977 per PD 1070 (PY 1981:329).”</p>		<p>“When demand and market prices declined, the 2 percent levy on exports of copper concentrates and the 4 percent duty on gold were suspended. The most recent tax relief was granted to distressed copper mining companies under Letter of Instruction No. 1416 signed on July 17, 1984. Copper mining companies classified as “distressed” by the Ministry of Trade and Industry are temporarily exempted from the payment of duties, fees and taxes until such time as the prices of copper have not improved (PY 1985: 418)</p>
1961	RA 3089 or The Gold Mining Industry Assistance Act of 1961 signed on June 17	<p>Sec. 5 All gold producers shall receive assistance as follows:</p> <ul style="list-style-type: none"> a) Mines producing gold as by-product – fifty pesos per ounce b) Mines whose annual production of gold as principal product is on hundred thousand ounces or less – sixty pesos per ounce plus seventy percent of the 		

		<p>positive difference between the cost of production per ounce of gold and the official price provided that this assistance the official price shall not exceed two hundred sixty pesos per ounce</p> <p>c)more than 100 ounces – P 50/ounce + 65% of the positive difference between the cost of production per ounce of gold and the official price: Provided, that this assistance and the official price shall not exceed two hundred thirty pesos per ounce.</p> <p>Every gold producer enjoying assistance shall give a bonus equivalent to 7.5% of the assistance received to its employees whose salaries do not exceed five hundred pesos per month.</p>		
1967	RA 5186 (Investment Incentives Act) as amended by P.D. No. 92		<p>Incentives by the Board of Investments:</p> <p>Grants mining companies incentives which include tax free</p>	

			importation of capital equipment, materials and spare parts for use in the mining industry (PY 1978:43).	
	RA 6135 (Export Incentives Act)	Both RA 5186 and RA 6135 “encourage processing of copper concentrates to blister and refined copper. In this respect, mining companies would be paying lesser tax (PY 1979:403).”		
9 July 1970	Proclamation No. 721	Declared part of said reservation consisting of the island of Surigao and all islets pertaining to it in Surigao del Norte as reverted to the public domain or public forest, thereby authorizing the commercial utilization of the timber found therein (as cited in PD 295 of 1973)		
1973	PD 295 amending Section 12 of Commonwealth Act No. 137, as amended, and declaring the commercial timber within the Surigao Mineral Reservation as available for			

	disposition and utilization			
	PD 99 – A Amending the provisions of Commonwealth Act No. 137, otherwise known as the Mining Act, as amended	<p>To provide the means to settle conflicts to achieve an orderly and effective discovery, possession, exploitation, development and administration of the country's mineral resources and hasten their development</p> <p>Sec. 1 Whenever there is any conflict between claim owners over any mining claim, whether mineral or non-mineral, the locator of the claim who first registered his claim with the proper mining registrar, notwithstanding any defect in form or technicality, shall have the exclusive right to possess, exploit, explore, develop and operate such mining claim.</p>		
	PD 309 Establishing Rules and Procedures for the Speedy Disposition or Settlement of Conflicting Mining Claims			

1974	PD 463 or the Mineral Resources Development Decree of 1974	<ol style="list-style-type: none"> 1. Optimally strike a balance between the exploitation and conservation of the country's mineral resources with due considerations to ecological balance or consequence; 2. Encourage investment in these mineral resources based industries and to increase the productivity of the mining industry; and 3. Exploit non-renewable resources and develop a pragmatic scheme so as to attain optimum benefits (Philippine Yearbook 1978: 462) <p>Considered an action/opposition that will hinder the operation of a mine as economic sabotage.</p> <p>PD 463 introduced the concept of 25-year mining leases and service contracts and was hailed as a "transition from passive to active, from historic to relatively modernized system of</p>	<p>Tax exemptions for machineries, equipment, tools for production, supplies and materials etc. from payment of customs duties and all taxes except income tax for a period starting from exploration and ending five years from the first date of actual commercial production of saleable mineral products, provided such articles are not locally available in the proper operations of the mine.</p> <p>This law was implemented through a series of Mines Administrative Orders, collectively called the Consolidated Mines</p>	
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		administration and disposition of mineral lands”. PD 463 is the first mining law in the Philippines that contained provisions on how to deal with the environmental and social aspects of mining operations (Cabalda 2002).	Administrative Orders, which clarified specific provisions of the law. The implementation of PD 463 was also supplemented by several Presidential Decrees, among which, are (1) PD 1251 (2) PD No. 1198	
	PD 1251	Imposed a fee of PhP0.05 and PhP0.10 per metric ton of mine waste and mill tailings, respectively, on operating mines. The collected amount accrues to a trust fund which is utilized for the compensation of damages to lands or people impacted by mine wastes and tailings and		
	PD No. 1198	Requiring that “to the fullest extent possible, restore, rehabilitate, and return the lands, rivers, and the natural environment subject thereof (mining, quarrying, etc.) or affected thereby to their original		

		conditions as of before such operations or activities”.		
1975	“...Establishment of nickel smelter and refinery complex in Nonoc, Surigao del Norte, which started operations in 1975, the country’s Gold Refinery and Mint which is capable of purifying 600,000 oz. of gold and 450,000 oz. of silver a year to a fineness of 995 to 999.9 and 999 fineness, respectively (PY 1979: 402).”			
	“The Philippine government has entered into a bilateral agreement with the Japanese government for the mineral resources survey of mineral deposits of northeastern Luzon. Started in early 1975, its exploration activities ended last			

	December 1977” (PY 1979:403)			
No date	E.O. No. 450		Temporary elimination of the export tax on copper (PY 1978:43).	
No date	PD 1070		Authorizing the grant of assistance to primary gold producers with amounts fixed by E.O. 479 (PY 1978:43).	
	RA 1828 or the Nickel Law	“This law was promulgated to hasten the development exploitation and utilization of the nickel deposits in the reservation proclaimed by the government in the province of Surigao where big deposits of low grade nickel are situated. Through this law, operators are exempted from all taxes duties, fees and charges both national and local directly payable by it for any work or activity, equipment, machinery, materials, instruments, structure etc. directly connected and used exclusively in the operation (PY 1981:329).”		

1980s	Mineral Resources Development. Fiscal and non-fiscal measures were instituted:	<p>E.O 674-B (1981) – Provision of preferential royalty rates for marginal mines</p> <p>BP 391 (1981) – Establishment of a package of incentives to BOI-registered mining companies</p> <p>PD463 (1974) – Allowing the continuation of availment of incentives under Sec. 53 of PD 463 (Mineral Resources Development Act of 1974) by mining firms notwithstanding the repeal of said section by BP Bldg. 391</p> <p>CB Circular No. 846 (1982) – Provision of a Special Credit Facility by the Central Bank to high grade mining firms listed in the stock exchanges</p> <p>CB Circular No. 847 (1982) – Financing of operating cash flow deficits of primary copper producers occasioned by depressed metal prices from the Copper Stabilization Fund</p> <p>CB Circular No. 873 (1982) – Provision of re-purchase option for gold producers, and bankers acceptance swap arrangement and</p>		
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		<p>inventory financing for copper and other metal producers</p> <p>1983 – Emplacement of a copper price subsidy program</p> <p>CB Circular 994 (1984) – Establishment of a rediscounting facility</p> <p>Letter of Instruction No. 1416 (1984) – Suspension of payment of all taxes, duties, imports, and other charges due the government by distressed copper mining companies</p> <p>Equitization of the outstanding obligations and rehabilitation of a few government-foreclosed mines, and</p> <p>The proposed Mineral Resources Development Act of 1988 which when enacted by Congress would provide a new system of allocation and management of mineral resources, promote their exploration, development, utilization and conservation and for other purposes (PY 1989: 478-479).</p>		
1981	PD 1789 or the Omnibus Investments	“...Consolidated all previous investment laws which include		

	Code signed on 16 January 1981	among others, the Investment Incentives Act (RA 5786) and the Exports Incentives Act (RA 6135). The Code provides registered firms more benefits and privileges such as reduced income tax to export producers, full or 50 percent exemption from payment of duties on importation on capital equipment; granting of incentives to traditional export products; deduction from taxable income of expenses incurred in construction of necessary and major infrastructure/public facilities etc (PY 1985: 438).”		
	EO 674-B	Provision of preferential royalty rate for marginal mines (PY 1987:441)		
	BP Blg. 391	Establishment of a package of incentives to BOI-registered mining companies		
23 January 1984	PD 1899 entitled “Establishing Small-scale Mining as a New Dimension in Mineral Development	“The promotion and development of the small-scale mining sector is one of the government’s intermediary priority progress. With the escalating cost of production and the scarcity of local and foreign capital, maintaining and developing large-scale mining		

		operations has become more prohibitive (PY 1985: 419).’		
1985	Mineral Resources Development Plan (1984 -1989)	<p>Programs and direction</p> <ol style="list-style-type: none"> 1. Intensification of the exploration program of highly mineralized areas with particular emphasis on gold, copper with high gold, chromite, marble, industrial mineral and fertilizer minerals. 2. Provision for an attractive investment climate for mineral resources development 3. Enhancement of the quality of life in mining communities 4. Improvement of the terms of trade and expansion of local and foreign markets for Philippine minerals 5. Enhancement of research and development efforts in mineral resources development and conservation 6. Enhancement of the contribution of the small-scale mining sector to the growth of the industry 7. Improvement of the government’s mineral data 		

		collection and analytical support for efficient and timely policy decision-making (PY 1985: 418-419)		
Late 80s				<p>“It is expected that gold will once again take over the dominant role from copper due to the following factors: economic constraints on existing copper mines to limit production from ore deposits with appreciable amounts of recoverable gold or other by-products; government thrust on gold exploration and development since 1983; principally gold-oriented exploration activities of the private sector since 1980; emergence of small-scale mining as a principal contributor of Philippine gold production and government rationalization of this sector through the Small-Scale Mining Decree of 1983; and the discovery of new gold deposits through mass-</p>

				based prospecting and application of recently development concepts of gold metallogenesis related to volcanic activities” (PY 1989: 470).”
1984	PD 1899 – Establishing Small-Scale Mining as a new Dimension in Mineral Development			
1987	The 1987 Philippine Constitution		State-bound agreements grant a 25-year lease plus another 25-year extension	
	EO 226 – Omnibus Investment Code of 1987		<ul style="list-style-type: none"> - Income tax holidays non-pioneer (4 years), pioneer (6 years) - Liberalized entry of foreign investment - Tax and duty-free importation of capital equipment, spare parts, unrestricted use of 	

			<p>consigned equipment</p> <ul style="list-style-type: none"> - Tax credits on taxes for raw materials - Exemption from value-added tax 	
	The study on Socio-Economic Enhancement of Mining Communities in the Philippines was undertaken			
	Philippine Mineral Resources Development Plan (1987-1992)	<p>Outlines the following issues and challenges confronting the mineral industry in the next six years:</p> <ol style="list-style-type: none"> 1. Investment climate for mineral resources development 2. Small-scale mining 3. Mining community development 4. Mineral lands administration 5. Mineral resource base 6. Disposition of government-foreclosed mines 7. Peace and order 8. Foreign and local market for mineral commodities 9. Research development 		

		<p>Goals and objectives:</p> <ul style="list-style-type: none"> • To promote an efficient and judicious use of mineral resources • To ensure the sustainable productive capacity of mineral resources • To encourage and support community-based mineral resources management and conservation • To achieve a more equitable sharing of benefits derived from the development and utilization of mineral resources • To increase the sector's contributions to the national efforts directed towards poverty and enhance welfare of small farmers and landless sectors • To encourage the use of mining technology which will promote productive harmony between man and his environment (PY 1989: 479) 		
1988	Draft mining code			
1989	EO 279	Enacted primarily as a transition law pending approval of the mining		This constitutionality of this interim law was

		<p>law then under review in the Philippine Congress, ushered the shift from the leasehold system under PD 463 to production sharing agreement, co-production, joint venture and financial or technical assistance agreements with foreign owned corporations (Cabalda 2002).</p> <p>Contained provisions for progressive rehabilitation, environmental protection and industrial health as well as the development of mining communities and geosciences and mining technology (ibid).</p> <p>The First Generation FTAs were granted under this interim law.</p>		<p>challenged (Miners Association of the Philippines vs. Secretary of the Department of Environment and Natural Resources) in 1990. But the Philippine Supreme Court upheld it as constitutional.</p>
	House Bill 10516 known as the People's Mining Act	<p>"...Placed under government control the operations of small-scale miners in gold-rush areas and give them maximum support. The measure also proposes to set aside offshore and onshore mining for subsistence miners. It also specifies that gold produce shall be sold</p>		

		exclusively to the Central Bank or its authorized representatives with the price comparable to those prevailing in the world market. This will prevent the diversion of gold to the black market and curtail its smuggling (PY 1989: 480.		
1991	Foreign Investments Act of 1991		<p>Foreigners can invest 100% equity</p> <p>No restrictions on the extent of mining investment</p>	
1993	R.A. 7652 - AN ACT ALLOWING LONG-TERM LEASE OF PRIVATE LANDS BY FOREIGN INVESTORS (June 4, 1993)	This law encourages foreign investments by granting a long-term lease (50 years renewable for another 25 years) on private lands to foreign investors for the establishment of industrial estates, factories, assembly of processing plants, agro-industrial enterprises, land development for industrial or commercial use, tourism, and other similar priority productive endeavors, while at the same time protecting agriculture.		
1995	R.A. 7918 - AN ACT AMENDING ARTICLE 39, TITLE	This law extends the effectivity of tax incentives to registered		

	III OF EXECUTIVE ORDER NO. 226 OTHERWISE KNOWN AS THE OMNIBUS INVESTMENT CODE OF 1987 (February 24, 1995)	enterprises, promoting higher productivity in the private sector in furtherance of national development.		
	RA 7942 or the Philippine Mining Act of 1995	<p>The contractors in mineral agreements, and financial or technical assistance agreements shall be entitled to the applicable fiscal and non-fiscal incentives as provided for under Executive Order No. 226, otherwise known as the Omnibus Investments Code of 1987</p> <p>(a) Repatriation of investments - The right to repatriate the entire proceeds of the liquidation of the foreign investment in the currency in which the investment was originally made and at the exchange rate prevailing at the time of repatriation.</p> <p>(b) Remittance of earnings - The right to remit earnings from the</p>	<p>Payables to the government:</p> <p>A ten per centum (10%) share of all royalties and revenues to be derived by the government from the development and utilization of the mineral resources within mineral reservations</p> <p>Royalty Payments for Indigenous Cultural Communities – not less than 1% of gross value</p>	

		<p>investment in the currency in which the foreign investment was originally made and at the exchange rate prevailing at the time of remittance.</p> <p>(c) Foreign loans and contracts - The right to remit at the exchange rate prevailing at the time of remittance such sums as may be necessary to meet the payments of interest and principal on foreign loans and foreign obligations arising from financial or technical assistance contracts.</p> <p>(d) Freedom from expropriation - The right to be free from expropriation by the Government of the property represented by investments or loans, or of the property of the enterprise except for public use or in the interest of national welfare or defense and upon payment of just compensation. In such cases, foreign investors or enterprises shall have the right to remit sums received as compensation for the expropriated property in the currency in which the investment was originally made</p>		
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		<p>and at the exchange rate prevailing at the time of remittance.</p> <p>(e) Requisition of investment - The right to be free from requisition of the property represented by the investment or of the property of the enterprises except in case of war or national emergency and only for the duration thereof. Just compensation shall be determined and paid either at the time or immediately after cessation of the state of war or national emergency. Payments received as compensation for the requisitioned property may be remitted in the currency in which the investments were originally made and at the exchange rate prevailing at the time of remittance.</p> <p>(f) Confidentiality - Any confidential information supplied by the contractor pursuant to this Act and its implementing rules and regulations shall be treated as such by the Department and the</p>		
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		<p>Government, and during the term of the project to which it relates.</p> <p>Auxiliary Rights</p> <ul style="list-style-type: none"> - Water rights - Timber rights - Easement rights - right to ease out impediments to mining operation (read: right to dislocate and displace farming, fishing and Indigenous communities) 		
	R.A. 7888 - AN ACT TO AMEND ARTICLE 7 (13) OF EXECUTIVE ORDER NO. 226, OTHERWISE KNOWN AS OMNIBUS INVESTMENTS CODE OF 1987 (February 20, 1995)	This law allows the suspension of the nationality requirements in cases of ASEAN projects, investments by ASEAN nationals, and regional ASEAN or multilateral financial institutions and their subsidiaries in certain projects.		
1996	R.A. 8179 - AN ACT TO FURTHER LIBERALIZE FOREIGN INVESTMENTS, AMENDING FOR	This law liberalizes foreign investment in the Philippines allowing up to 100% ownership of domestic market enterprises by foreign nationals. It also encourages investments by former Filipino	Allows 100% of foreign ownership of domestic market enterprise	

	THE PURPOSE REPUBLIC ACT NO. 7042, AND FOR OTHER PURPOSES (March 28, 1996)	citizens by granting them the same rights as Filipino citizens.		
1997	R.A. 8366 - AN ACT LIBERALIZING THE PHILIPPINE INVESTMENT HOUSE INDUSTRY, AMENDING CERTAIN SECTIONS OF PRESIDENTIAL DECREE NO. 129, AS AMENDED, OTHERWISE KNOWN AS THE INVESTMENT HOUSES LAW (October 21, 1997)	This law expands and strengthens the capital base of the economy in order to ensure sustained economic growth and development. Toward this end, the Philippine investment house industry is hereby liberalized, increasing foreign equity participation and raising the minimum capitalization of investment houses to enable them to meet the present and future demands of the market.		
1998	Executive Order (EO) No. 11 issued on October 24, 1998 – Foreign Investment Negative List (FINL)	List A – areas reserved to Filipinos by mandate of the Constitution and special laws such as but not limited to: (a) mass media except recording, practice of licensed profession, retail trade, cooperative, small-scale mining etc. where foreign		

		<p>ownership is prohibited;</p> <p>(b) advertising, ownership of land, operation and management of public utilities etc., where only minority foreign ownership is allowed.</p> <p>List B – areas that are defense related, those with diverse effects on public health and morals and domestic market enterprises with paid-in capital of less than US\$200,000, unless they involve advanced technology or directly employ at least 50 employees in which case the paid-in capital can be US \$ 100,000 only.</p>		
2001	<p>RA 9054 – An act to strengthen and expand the organic act for the Autonomous Region in Muslim Mindanao, amending for the purpose Republic Act No. 6374, entitled “An Act Providing for the Autonomous Region</p>	<p>Section 5. <i>Use, Development of Mines, Minerals and Other Natural Resources, Revenue Sharing: Exceptions</i> – (a) <i>Regional Supervision and Control</i>. The control and supervision over the exploration, utilization, development, and protection of the mines and minerals and other natural resources within the autonomous region are hereby vested in the Regional Government in accordance with the Constitution and the</p>		

	in Muslim Mindanao’ as amended	<p>pertinent provisions of this Organic Act except for the strategic minerals such as uranium, petroleum and other fossil fuels, mineral oils, all sources of potential energy, as well as national reserves and aquatic parks, forest and watershed reservations already delimited by authority of the central government or national government and those may be defined by an Act of Congress within one (1) year from the effectivity of this Organic Act.</p> <p><i>(b) Sharing Between Central Government or National Government and Regional Government in Strategic Minerals, Revenues, Taxes or Fees.</i> Fifty (50%) percent of the revenues, taxes, or fees derived from the use and development of the strategic minerals shall accrue and remitted to the Regional Government within thirty (30) days from the end of every quarter of every year. The other fifty (50%) shall accrue to the central government or national government.</p> <p><i>(c) Sharing Between Regional Government and Local Government Units in Strategic Minerals Revenues, Taxes, or Fees.</i> The share of the Regional Government mentioned above is hereby</p>		
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		<p>apportioned as follows: thirty percent (30%) to the Regional Government; twenty percent (20%) to all the provinces; fifteen percent (15%) to all the cities, twenty percent (20%) to all municipalities; and fifteen percent (15%) to all the barangays. If there are no cities in the autonomous region as of the date of sharing above mentioned is done, the share of the cities shall be derived equally by all provinces, municipalities, and barangay in the autonomous region.</p> <p>(d) <i>Regional Assembly Authority to Grant Franchises and Concessions and Empower Regional Governor to Grant Leases, Permits, and Licenses</i>. The Regional Assembly shall by law have the authority to grant franchises and concessions and may by law empower the Regional Governor to grant leases, permits, and licenses over agricultural, forest, or mineral lands. The said leases, permits, franchises, or concessions shall, however, cover areas not exceeding the limits allowed by the Constitution and shall subsist for a period not exceeding twenty-five (25) years. Except as provided in this Organic Act, existing leases, permits, licenses, franchises, and concessions shall be respected until</p>		
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		<p>their expiration unless legally terminated earlier as provided by law enacted either by Congress or by the Regional Assembly.</p> <p>(e) <i>Consultations with Cultural Communities Needed.</i> The permits, licenses, franchises, or concessions over the natural resources located within the boundaries of an ancestral domain shall be issued by the Regional Assembly only after consultations are conducted with the cultural community concerned.</p> <p>Section 6. <i>Use and Development of Natural Resources Open to Citizens.</i> – The exploration, development and utilization of natural resources, except those referred to in the first paragraph of section 5 of this Article, shall be allowed to all citizens and to private enterprises, including corporations, associations, cooperatives, and such other similar collective organizations with at least sixty percent (60%) of their capital investment or capital stocks directly controlled or owned by citizens.</p> <p>Section 7. <i>Preferential Rights of Citizen – Inhabitants of Autonomous Region.</i> – Subject to exceptions provided in the Organic Act, citizens who are inhabitants of the autonomous region shall have preferential rights over the</p>		
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		<p>exploration, utilization, and development of natural resources of the autonomous region. Existing right over the exploration, utilization, and development of natural resources shall be respected subject to the exceptions specified in this Organic Act.</p> <p>Section 8. <i>Rules, Regulations and Fees.</i> – The Regional Assembly shall by law regulate the exploration, utilization, development, and protection of the natural resources, including the mines and minerals, except the strategic minerals as provided in this Organic Act. The Regional Government shall, pursuant to the said law, shall prescribe the rules and regulations and impose regulatory fees in connection therewith. Upon the enactment of the said law and the effectivity of such rules and regulations, the fees imposed by the Regional Government shall replace those that had been imposed by the central government or national government.</p> <p>Section 9. <i>Regulation of Small-Scale Mining.</i> – Small-scale mining shall be regulated by the Regional Government to the end that the ecological balance, safety and health and the interests of the Indigenous</p>		
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		cultural communities, the miners, and the people of the place where such operations are conducted are duly protected and safeguarded.		
January 16, 2004	Executive Order 270 – The National Policy Agenda on Revitalizing Mining in the Philippines.	President Gloria Macapagal-Arroyo issued EO 270, which provides the underlying principles and priorities in the pursuit of revitalizing the Philippine minerals industry.		
January 27, 2004		The Philippine Supreme Court declared the unconstitutionality of certain provision of RA 7942, and its Implementing Rules and Regulations (IRR) contained in the Department of Environment and Natural Resources (DENR) Administrative Order 96-40 and the entire FTAA executed between the government and Western Mining Corporation Philippines (WMCP),		
April 20, 2004	EO 270-A – Amend some provisions of EO 270			
September 13, 2004	PGMA directed DENR to implement	Mineral Action Plan (MAP) which was crafted by interagency working groups and delineated 12 basic tenets covering environmental and		Criticisms of the MPA: 1) the guardian of mineral resources, the Department of Environment and

	EO 270 through an action plan	<p>social considerations in this order:</p> <p>The critical role of investments;</p> <ul style="list-style-type: none"> • Clear, stable and predictable investment and regulatory policies; • Value-adding; • Promotion of small-scale mining as a formal sector; • Use of efficient technologies; • Protection of the environment; • Safeguarding the ecological integrity of areas affected by mining; • Multiple land use and sustainable utilization of minerals; • Remediation and rehabilitation of abandoned mines; • Equitable sharing of economic and social benefits; • Sustained information, education and communication (IEC) campaign and respect for the rights of Indigenous peoples (IPs) and communities; and • Continuous and meaningful 		<p>Natural Resources, is given the conflicting dual role of promoting mining and safeguarding the integrity of the environment and natural resources, and 2) there is a lack of attention to problems of weak governance, including the enforcement of rules and regulations pertaining to mining</p>
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		<p>consultations with stakeholders.</p> <p>For its medium term goals, which were set for six or seven years from 2004, four urgent tasks were identified along with the corresponding strategies and responsible government agencies for implementing the strategies. The four areas of concerns were:</p> <ul style="list-style-type: none"> • Promotion of investments in the minerals industry; • Promotion of greater public confidence in the minerals industry; • Promotion of greater public acceptance of the minerals industry; and • Promotion among the industry's stakeholders of open and transparent communication (Mines and Geosciences Bureau (d), Philippines) 		
December 1, 2004		The Philippine Supreme Court reversed its ruling and declared constitutional the Philippine Mining Act, its IRR, and the FTAA dated March 30, 1994 executed by the government and WMCP, except		

		Sections 7.8 (e) and 7.9 of the subject FTAA		
Feb. 1, 2005		The Supreme Court decided with finality that the Philippine Mining Act is constitutional.		

APPENDIX E

Environmental Laws relevant to Mining

Date	Law/ Policy	Content
18 June 1964	Presidential Decree No. 3931	Created the National Water and Air Pollution Control Commission
18 August 1976	Presidential Decree No. 984	The “Pollution Control Law of 1976” declaring as a national policy the prevention, abatement and control pollution of water, air and land for the more effective utilization of the country’s resources.
18 Aug 1976	PD No. 979	Revision of Presidential Decree No. 600 governing prevention and control of Marine Pollution
31 December 1976	PD 1067	Instituted a Water Code, thereby revising and consolidating the laws governing ownership, appropriation, utilization, exploitation, development, conservation and protection of water resources.
April 18, 1977	PD 1121	Created the National Environmental Protection Council
June 6, 1977	PD 1151	The “Philippine Environment Policy”; Recognizes compulsory submission of “Environmental Impact Assessment” studies.
	PD 1152	The “Philippine Environmental Code”.
11 June 1978	PD 1586	Provided the adoption and implementation of the legal framework of the EIA provided under PD 1151
	Guidelines on the implementation of Section 56 of PD 1152	Rules and regulations on tax incentives for the installation, utilization and operation of pollution control facilities pursuant to PD No. 984 and its implementing rules.
December 12, 1981	Presidential Proclamation No. 2146	Proclaiming certain areas and types of projects as Environmentally Critical (which includes mining) and within the scope of Environmental Impact Statement System established under PD 1586.
December 14, 1981	Letter of Instruction No. 1179	Instructing all appropriate ministries and their attached agencies regarding the issuance of an Environmental Compliance Certificate (ECC) as a precondition to commencement of any activity or project.

November 1984	National Environmental Protection Council Office Circular No. 3, Series of 1984	Technical definitions and scope of the Environmentally Critical Projects and Areas enumerated in Proclamation 2146.
1989	Department of Environment and Natural Resources (DENR) Administrative Order No. 52, series of 1989	Rules and regulations on the participation of non-governmental organizations in the DENR programs, particularly in natural resources development, conservation, management and protection and the enforcement of laws, rules and regulations for the sustainable development of the country's remaining natural resources for the benefit and enjoyment of present and future generations of Filipinos.
October 26, 1990	Republic Act (RA) No. 6969	An Act to control toxic substances and hazardous and nuclear wastes, providing penalties for violations.
20 March 1990	DENR Administrative Order No. 34 series of 1990	Revised Water Usage and Classification/Water Quality Criteria.
1990	DENR Administrative Order No. 35, series of 1990	Revised Effluent Regulations of 1990.
1992	DENR Administrative Order No. 21, series of 1992	Amending the revised rules and regulations implementing PD 1586 (Environmental Impact System).
	DENR Administrative Order No. 29, series of 1992	General rules and regulations of RA 6969 to cover importation, manufacture, processing, handling, storage, transportation, sale, distribution, use and disposal of all unregulated chemical substances and mixtures in the Philippines, including the entry, even in transit, as well as the keeping and storage and disposal of hazardous and nuclear waste into the country for whatever purpose.
1993	DENR Administrative Order	Revised Air Quality Criteria

	No. 14, Series of 1993	
	DENR Administrative Order No. 96 – 37 Revising DAO 21, Series of 1992,	To further strengthen the implementation of the EIS System
June 23, 1999	Republic Act No. 8749 (June 23, 1999)	The Philippine Clean Air Act of 1999

APPENDIX H

A Comparison of Mining Laws on Small-Scale Mining in the Philippines

	RA 7076 (1992) or the People's Small-Scale Mining Act	PD 1899
Description	RA 7076 established the People's Small-Scale Mining Program to be implemented by the Secretary of the Department of Environment and Natural Resources (DENR), through the Provincial/City Mining Regulatory Board (PMRB/CMRB), to achieve orderly, systematic and rational scheme for the small-scale mining development and utilization of mineral resources in certain mineral areas in order to address the social, economic, technical and environmental problems connected with small-scale mining activities.	Establishing small-scale as a new dimension of mineral development
Declaration of Policy	It is hereby declared of the State to promote, develop, protect and rationalize viable small-scale mining activities in order to generate more employment opportunities and provide an equitable sharing of the nation's wealth and natural resources, giving due regard to existing rights as herein provided.	
Activities	RA 7076	PD 1899
Small-scale mining	Refers to mining activities which rely heavily on manual labor using simple implement and methods and do not use explosives or heavy mining equipment	SECTION 1. Small-scale mining refers to any single unit mining operation having an annual production of not more than 50,000 metric tons of ore and satisfying the following requisites: 1. The working is artisanal, either open cast or shallow underground mining, without the use of sophisticated mining equipment; 2. Minimal investment on infrastructures and processing plant; 3. Heavy reliance on manual labor; and 4. Owned, managed or controlled by an individual or entity qualified under existing mining laws, rules and regulations.

Land	RA 7076 (1992) or the People's Small-Scale Mining Act	PD 1899
Mineral lands		
Mining area		
Active mining area	Refers to areas under actual exploration, development, exploitation or commercial production as determined by the Secretary after the necessary field investigation or verification including contiguous and geologically related areas belonging to the same claim owner and/or under contract with an operator, but in no case to exceed the maximum area allowed by law	
Mineralized areas	Areas to with naturally occurring mineral deposits of gold, silver, chromite, kaolin, silica, marble, gravel, clay and like mineral resources	
Mineral Reservations	(Ch III. Sec. 6) Establishment and Reversion of Mineral Reservations. Upon the recommendation of the Secretary, based on the reports submitted by the Director, the President may set aside and establish an area of the public domain as a mineral reservation and prescribe the terms and conditions for its disposition and operation, or may also alter or modify the boundaries of any mineral reservation from time to time or revert any mineral reservation to the public domain without prejudice to any prior subsisting rights.	
Areas Open to Mining Operations.	<p>The following areas may be declared as People's Small-Scale Mining Area:</p> <ul style="list-style-type: none"> • Areas already occupied and actively mined by Small-Scale Miners before August 1, 1987: Provided, that such areas are not considered as active mining areas: Provided, further, that the minerals found therein are technically and commercially suitable for small-scale mining activities: Provided, finally, that the areas are not covered by existing forest rights or reservations and 	

	<p>have not been declared as tourist or marine reserves, parks and wildlife reservations, unless their status as such are withdrawn by competent authority;</p> <ul style="list-style-type: none"> • Public lands not subject to any existing right; • Public lands covered by existing mining rights which are not active mining areas; • Private lands, subject to certain rights and conditions, except those with substantial improvements or in bona fide and regular use as a yard, stockyard, garden, plant nursery, plantation, cemetery or burial site, or land situated within one hundred meters (100 meters) from such cemetery or burial site, water reservoir or a separate parcel of land with an area of ten thousand square meters (10,000 sq.m.) or less; • Ancestral lands with prior consent from the cultural communities concerned. Provided, That the members of the cultural communities therein shall be given priority in the awarding of small-scale mining contracts; • Areas occupied by a community of traditional small-scale miners subject to the approval of the said community. 	
Areas Closed to Mining Applications		<p>SECTION 7. New mining areas and/or areas covered by existing reservations not covered by valid and existing mining claims at the time of the promulgation of this Decree shall be governed by the implementing rules and regulations that shall be hereinafter promulgated.</p> <p>The permit area falling under this Section, and its immediate vicinity, shall be closed to mining location and the permittee/ licensee shall have the first option to locate such areas under other mining laws/decrees, which shall be exercised within the period of two (2) years from the grant of the permit or license to cover an area equivalent to but not exceeding one meridional block.</p>
Maximum mining area allowed	<p>The Board shall determine the reasonable size and shape of the contract area following the meridional block system established under PD 463 as amended, but in no case shall the area exceed twenty hectares (20 has) per contractor and the depth or length of the tunnel or adit not exceeding that recommended by the director taking into account the following circumstances:</p>	

	<ul style="list-style-type: none"> a) Size of membership and capitalization of the cooperative; b) Size of mineralized area c) Quantity of mineral deposits d) Safety of miners e) Environmental impact and other considerations; and f) Other related circumstances 	
Contract area		
Rights & Agreements	RA 7076 (1992) or the People's Small-Scale Mining Act	PD 1899
Small-scale mining contract	<ul style="list-style-type: none"> • Awarded to registered small-scale miners that have organized themselves into cooperatives; • Maximum area of twenty (20) hectares; • Has a term of two (2) years renewable for like periods; • Issued by the Provincial Governor/City Mayor, upon the recommendation of the P/CMRB; • May be entered into under any of the following modes of agreement? Co-Production, Joint-Venture or Mineral Production Sharing Agreement; • Ensures workers safety and health of small-scale miners; and • Ensures the protection of the environment. <p>Holder of small-scale mining contract have the following duties and obligations:</p> <ul style="list-style-type: none"> a) Undertake mining activities only in accordance with a mining plan duly approved by the Board; b) Abide by the MGB and the small-scale Mining Safety Rules and Regulations c) Comply with his obligations to the holder of an existing mining rights; d) Pay all taxes, royalties or government production share as are now or may hereafter be provided by law; e) Comply with pertinent rules and regulations on environmental protection and conservation, particularly those on tree-cutting mineral processing and pollution control; 	

	<p>f) File under oath at the end of each month a detailed production and financial report to the Board; and</p> <p>g) Assume responsibility for the safety of persons working in the mines.</p>	
Rights under a Small-scale Mining Contract	Sec. 12 Entitles the small-scale mining contractor to	
Existing mining rights	Refer to perfected and subsisting claim, lease, license or permit covering a mineralized area prior to its declaration as a people's small-scale mining area	
Rights of Claim owners	<p>Sec. 14. If small-scale mining area is covered by an existing mining right, "the claim owner and the small-scale miners therein are encouraged to enter into a voluntary and acceptable contractual agreement with respect to the small-scale utilization of the mineral values from the area under claim. In case of disagreement, the claim owner should be entitled to the following rights and privileges:</p> <p>a. Exemption from the performance of annual work obligations and payment of occupation fees, rental and real property taxes;</p> <p>b. Subject to the approval of the Board, free access to the contract area to conduct metallurgical tests, explorations and other activities, provided such activities do not unduly interfere with the operations of the small-scale miners; and</p> <p>c. Royalty equivalent to one and one half percent (1 1/2% of the gross value of the metallic mineral output or one percent (1%) of the gross value of the nonmetallic mineral output to be paid to the claim owner: Provided that such rights and privileges shall be available only if he is not delinquent and other performance of his annual work obligations and other requirements for the last two (2) years prior to the effectivity of this Act.</p>	

Easement Rights	Upon the declaration of a people's small-scale mining area, the director, in consultation with the operator, claim owner, landowner or lessor of an affected area, shall determine the right of the small-scale miners to exist facilities such as mining and logging roads, private roads, port and communication facilities, processing plants which are necessary for the effective implementation of the People's Small-scale Mining Program, subject to payment of reasonable fees to the operator, claim owner, landowner or lessor.	
Entry into Private Lands and Concession Areas.		
Eminent Domain		
Actors	RA 7076 (1992) or the People's Small-Scale Mining Act	PD 1899
Provincial/City Mining Regulatory Board (P/CMRB)	<p>Under the direct supervision and control of the DENR Secretary. Implementing agency of the DENR of the People's Small-Scale Mining Program and shall exercise the following powers and functions, subject to review of the DENR Secretary:</p> <ul style="list-style-type: none"> • Declare and segregate existing gold-rush areas for small-scale mining; • Reserve for the future, mineralized areas/mineral lands for People's Small-Scale Mining; • Award contracts to small-scale miners' cooperative; • Formulate and implement rules and regulations related to the People Small-Scale Mining; and • Settle disputes, conflicts or litigations over conflicting claims within a People's Small-Scale Mining Area. 	

	<p><i>Composition of the PMRB/CMRB</i></p> <ul style="list-style-type: none"> • The MGB Regional Director concerned, or his/her authorized representative, as Chair; • The Provincial Governor/City Mayor, or his/her authorized representative, as Vice-Chair; • One (1) small-scale mining representative as member; • One (1) big-scale mining representative as member; and • One (1) environmental NGO representative as member. 	
Small-scale miners	Refer to Filipino citizens who, individually or in the company of other Filipino citizens, voluntarily form a cooperative duly licensed by the DENR to engage, under the terms and conditions of a contract, in the extraction or removal of minerals or ore-bearing materials from the ground.	
ICC		
Foreign-owned corporation		
Contractor		
"Lessee"		
"Qualified person"		
"Nongovernmental organization (NGO)"		
Permittee		

Claim owners	Refers to a holder of an existing mining right	
Processor	Refers to a person issued a license to engage in the treatment of minerals or ore-bearing materials such as by gravity concentration, leaching beneficiation, cyanidation, cutting, sizing, polishing and other similar activities	
Regulations		
License	Refers to the privilege granted to a person to legitimately pursue his occupation as a small-scale miner or processor under this Act	
Mine Labor		
Dangerous Practice		
Report of Accidents		
Mines Safety and Environmental Protection.		
Environmental Protection		
Environmental Impact Assessment		

Ecological profile or eco-profile		
Environmental compliance certificate (ECC)		
Rehabilitation		
Penalties	RA 7076 (1992) or the People's Small-Scale Mining Act	PD 1899
Cancellation of contracts	Sec. 21. The non-compliance with the terms and conditions of the contract or violation of the rules and regulations issued by the Secretary pursuant to this Act, as well as the abandonment of the mining site by the contractor, shall constitute a ground for the cancellation of the contracts and the ejectment from the people's small-scale mining area of the contractor. In addition, the Secretary may impose fines against the violator in an amount of not less than Twenty thousand pesos (P 20,000.00) and not more than One hundred thousand pesos (100,000). Nonpayment of the fine imposed shall render the small-scale mining contractor ineligible for another small-scale mining contracts.	